

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL NO. 3:18-CV-646

UNITED STATES OF AMERICA,

Plaintiff,

v.

APPROXIMATELY \$252,140.00 IN US  
CURRENCY SEIZED FROM DARREN  
LENNARD COLEMAN ON JUNE 27, 2016  
AT CHARLOTTE-DOUGLAS  
INTERNATIONAL AIRPORT.

CLAIMS OF ROBERT SHUMAKE AND  
INTERNATIONAL HUMAN RIGHTS  
COMMISSION

**APPENDIX IN SUPPORT OF THE  
UNITED STATES' MOTION FOR  
SUMMARY JUDGMENT ON THE  
CLAIMS OF SHUMAKE AND IHRC**

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UNITED STATES OF AMERICA, )  
 ) CIVIL ACTION FILE NO.:  
 ) 3:18CV646  
 )  
 vs. )  
 )  
 APPROXIMATELY \$252,140.00 )  
 IN US CURRENCY SEIZED FROM )  
 DARREN LENNARD COLEMAN ON )  
 JUNE 17, 2016, AT )  
 CHARLOTTE-DOUGLAS )  
 INTERNATIONAL AIRPORT )

DEPOSITION OF  
DARREN COLEMAN

# CERTIFICATE OF NONAPPEARANCE

11:02 a.m.  
November 16, 2020

Janice S. Baker & Associates  
235 Peachtree Street, Northeast  
North Tower, Suite 400  
Atlanta, Georgia 30303

ERIC A. EDWARDS, CCR No. 4520-6049-0760-1920

Asheville Reporting  
111 McDowell Street  
Asheville, NC 28801  
(828) 254-9230



APPEARANCES OF COUNSEL VIA VIDEOCONFERENCE

On Behalf of the United States of America:

J. SETH JOHNSON, ESQUIRE

Assistant United States Attorneys

227 West Trade Street

Suite 1650

Charlotte, North Carolina 28202

(704) 344-6222

benjamin.bain-creed@usdoj.gov

On Behalf of the Witness, Darren Coleman:

DAVID M. MICHAEL, ESQUIRE

Law Offices of Michael & Burch, LLP

One Sansome Street

Suite 3500

San Francisco, California 94104

(415) 946-8996

(877) 767-3821 (Fax)

david@michaelburchlaw.com

Also Present: William Bass

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DARREN COLEMAN:

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	(No exhibits marked/identified.)	
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1 Remote Deposition of Darren Coleman

2 November 16, 2020

3 CERTIFICATE OF NONAPPEARANCE

4 MR. MICHAEL: This is David Michael. I'm the  
5 attorney in San Francisco. I represent the  
6 deponent, Darren Lennard Coleman. I agree that he  
7 has been the duly noticed to appear at his  
8 deposition today, and he is not able to appear.  
9 And the reasons why are the ones I have given to  
10 the Government earlier yesterday and the day  
11 before.

12 He is -- Mr. Coleman is -- lives in  
13 Loganville, Georgia. That's L-o-g-a-n, Loganville,  
14 Georgia. He is a coach at the -- a football coach  
15 at the Grayson High School -- for the Grayson High  
16 School football team, which is apparently a  
17 nationally famous championship high school football  
18 team.

19 He is presently self-quarantined at home where  
20 he lives with his wife and two children. He is  
21 experiencing symptoms of COVID-19 included a fever,  
22 cough, and weaknesses. I have talked to him by  
23 text yesterday, and he has declined to appear at  
24 this deposition for those reasons.

25 I will monitor with him every day to find out

1           when he ends up taking COVID-19 tests to determine  
2           whether or not he's testing positive, but for now  
3           he is unwilling to participate in this deposition  
4           for those reasons.

5           I certainly would be willing to have him  
6           submit to his deposition if his symptoms recede or  
7           he tests negative for the COVID-19 virus, and I  
8           will certainly waive any requirement for any formal  
9           notice by the Government to do so so that we can  
10          get this on track just as fast as possible. I will  
11          be maintaining contact with him on a daily basis to  
12          find out how it progresses with his condition right  
13          now.

14          MR. JOHNSON: Thanks, David. This is ASA Seth  
15          Johnson. I represent the United States in this  
16          case, and we would just note the Government's  
17          appearance.

18          (Deposition suspended at 11:04 a.m.)

## DISCLOSURE

STATE OF GEORGIA

COUNTY OF FAYETTE

Pursuant to Article 10.B of the Rules and Regulations of the Board of Court Reporting of the Judicial Council of Georgia, I make the following disclosure:

I am a Certified Court Reporter and an independent contractor.

I was contacted to provide court reporting services for this deposition by Asheville Reporting. I will not be taking this deposition under any contract that is prohibited by the O.C.G.A. 15-14-37(a) and (b) or Article 7.C of the Rules and Regulations of the Board. I have no contract and/or agreement to provide court reporting services with any party to this case or any counsel in this case.

I am not disqualified for interest, personal or financial, under O.C.G.A. 9-11-28(c).

I will charge my usual and customary rates to all parties in the case.

On this date of November 16, 2020.

*Eric Edwards*

Eric A. Edwards, CCR

## CERTIFICATE

STATE OF GEORGIA

COUNTY OF FAYETTE

I, Eric A. Edwards, Certified Court Reporter, certify that the foregoing pages 1 through 7 of the transcript are a true, correct, and complete record of the testimony given by the deponent, Darren Coleman, who was first duly sworn by me; that I am not a relative, employee, attorney, or counsel of any of the parties nor financially interested in the action; and that the said deponent and counsel in the presence of each other and before me was required to reserve the reading and signing of the examination under oath transcript.

This certificate is expressly withdrawn and denied upon disassembly and/or photocopying of the foregoing transcript or any portion thereof unless such disassembly or photocopying is done by the undersigned Certified Court Reporter and signature and seal are attached hereto.

On this date of November 28, 2020.



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Eric Allen Edwards, CCR

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,

vs.

Civil Action

No. 3:18-CV-646

APPROXIMATELY \$252,140.00 IN  
US CURRENCY SEIZED FROM DARREN  
LENNARD COLEMAN ON JUNE 27, 2016  
AT CHARLOTTE-DOUGLAS INTERNATIONAL  
AIRPORT,

\_\_\_\_\_/

The Deposition of ROBERT S. SHUMAKE (Personally),  
Taken via Zoom  
Commencing at 11:03 a.m.,  
Tuesday, November 17, 2020,  
Before Dale E. Rose, CSR-0087.

EXHIBIT

2

## 1 APPEARANCES:

2  
3 MR. BENJAMIN BAIN-CREED

4 MR. J. SETH JOHNSON

5 UNITED STATES DEPARTMENT OF JUSTICE

6 U.S. ATTORNEYS OFFICE

7 Assistant United States Attorneys

8 227 West Trade Street, Suite 1650

9 Charlotte, North Carolina 28202

10 (704) 344-6222

11 benjamin.bain-creed@usdoj.gov

12 Appearing on behalf of the

13 United States of America

14  
15 MR. DAVID M. MICHAEL

16 Law Offices of Michael &amp; Burch, LLP

17 One Sansome Street, Suite 3500

18 San Francisco, California 94104

19 (415) 946-8996

20 david@michaelburchlaw.com

21 Appearing on behalf of the Deponent

1 Tuesday, November 17, 2020

2 About 11:03 a.m.

3 (NOTE: The deponent and reporter  
4 appeared in Detroit, all counsel  
5 appeared via Zoom.)

6 ROBERT S. SHUMAKE,

7 having first been duly sworn, was examined and  
8 testified on his oath as follows:

## 9 EXAMINATION

10 BY MR. BAIN-CREED:

11 Q. Good morning, Mr. Shumake. My name is Ben  
12 Bain-Creed, I'm an Assistant U.S. Attorney. That  
13 is a federal prosecutor that handles federal  
14 forfeiture cases here in Charlotte.15 I'm going to do most of the talking for  
16 this deposition, but I do have -- I just wanted  
17 you to see -- I do have my colleague here Seth  
18 Johnson. He's also a federal prosecutor handling  
19 forfeiture cases here in Charlotte.20 Obviously we are here in the case of  
21 U.S. v \$252,140 seized from Darren Coleman in  
22 2016 at the Charlotte International Airport.23 And as you can see also on the Zoom  
24 you've got your attorney Mr. Michael in San  
25 Francisco in case you have any questions.

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22 petition dated 7-7-17 ..... 99

1 MR. MICHAEL: Robert, can you see and

2 hear both of us clearly?

3 THE WITNESS: There's a delay, but I

4 can see both of you. There's a delay on hearing  
5 you.

6 BY MR. BAIN-CREED:

7 Q. Well, if at any point you can't hear me or Seth  
8 or Mr. Michael, you just let us know.

9 A. Sure.

10 Q. So we're going to just start with some real  
11 background questions and we'll get into the  
12 details of this case later.13 But can you state and spell your name  
14 for the record, Mr. Shumake?

15 A. Robert Shumake, S-h-u-m-a-k-e.

16 Q. And, Mr. Shumake, do you understand you're under  
17 oath?

18 A. I do.

19 Q. And you're testifying here under penalty of  
20 perjury, do you understand that?

21 A. I do.

22 Q. And you understand that anything said here can be  
23 used in any case civil or criminal against you?24 A. I do not know that part, but I do know about the  
25 perjury part.

1 Q. Okay, but you understand that anything you say  
2 here can be used against you, right? It's  
3 under-oath testimony, do you understand that?  
4 A. Based upon what you're telling me right now I  
5 understand that.  
6 Q. So you understand that you have to answer  
7 verbally, in other words you can't nod your head,  
8 you have to actually say "yes" or "no" and answer  
9 verbally.  
10 A. Yes, I do understand that.  
11 Q. Now, you understand if a question is unclear you  
12 can ask me to clarify the question or you can ask  
13 me to repeat it.  
14 A. I understand, yes.  
15 Q. And we want to try to have me finish a question  
16 and I'll finish speaking and then you can speak  
17 and answer. We're going to try not to interrupt  
18 each other, do you understand that?  
19 A. Yes.  
20 Q. And the reason for that is just the court  
21 reporter has to record things here.  
22 So, Mr. Shumake, are you able to  
23 understand and respond to questions here today?  
24 A. Yes.  
25 Q. Have you taken any alcohol or drugs in the past

1 24 hours that would impair your ability to  
2 understand or answer questions here this morning?  
3 A. No that I know of.  
4 Q. But you're able to answer questions, you're not  
5 impaired is the basics of this question. You're  
6 not impaired today?  
7 A. Correct.  
8 Q. Did you speak to anyone other than your attorney  
9 about the deposition?  
10 A. I did.  
11 Q. Who did you speak to about the deposition?  
12 A. My fiancée.  
13 Q. What's her name?  
14 A. Natalie King.  
15 Q. What's her last name?  
16 A. K-i-n-g.  
17 Q. And, Mr. Shumake, I'm sorry, it's a little bit  
18 hard to hear you, so I have to ask you to talk  
19 loud.  
20 And what did you talk about with  
21 Ms. King?  
22 A. That was the time of the deposition today.  
23 Q. And she's your fiancée, is she based in Michigan  
24 or elsewhere?  
25 A. Based here, Michigan.

1 Q. Did you review any documents to prepare for your  
2 deposition today?  
3 A. I did.  
4 Q. What did you review?  
5 A. I'm not sure of the name of the document. The  
6 claimant document and the exhibits.  
7 Q. The ones that we just sent to your counsel this  
8 morning, did he e-mail those to you?  
9 A. Sure, I reviewed some of them.  
10 MR. MICHAEL: Let the record show that  
11 those exhibits consisting of 37 exhibits were  
12 sent to me early this morning, at least my time  
13 early this morning, and then I downloaded them  
14 and I forwarded them to Mr. Shumake, but at the  
15 time I was able to forward them to him was I  
16 think probably about maybe 1 hour ago.  
17 So we talked about the exhibits, but of  
18 course it was impossible for us during the short  
19 time we had to go through each exhibit.  
20 But we talked about them and  
21 Mr. Shumake is generally aware of the exhibits,  
22 but not of the exact content of each exhibit. I  
23 think that's a fair way to portray what happened  
24 regarding the exhibits today.  
25 BY MR. BAIN-CREED:

1 Q. So, okay, Mr. Shumake, following up on what  
2 Mr. Michael said, if I'm asking you a question  
3 here today and you get confused or you think  
4 well, I haven't looked at this exhibit in a while  
5 and you need time to review it, you can take time  
6 to review it.  
7 We're happy to sit here for however  
8 long you need to review an exhibit.  
9 A. Okay.  
10 Q. Also if you have questions for your attorney  
11 during the deposition you can ask questions of  
12 your attorney.  
13 Our only request from the government  
14 side would be that if you have a question for  
15 your attorney, you don't ask him one in the  
16 middle of answering a question.  
17 So, for example, if I ask you a  
18 question, I'd like you to answer it and then you  
19 can go ask your attorney questions after that.  
20 Really the only reason you would not  
21 answer a question that I ask is that if your  
22 attorney says there's some kind of privilege  
23 issue and he'll chime in if that's the case.  
24 Mr. Shumake, have you ever been deposed  
25 before?

1 A. Yes.

2 Q. When was that?

3 A. I don't recall.

4 Q. Like the past 10 years, the past 20 years?

5 A. Within 20 years, yes.

6 Q. How many times have you been deposed before?

7 A. I don't recall, a few.

8 Q. Would you say like five times or 10 times?

9 A. Less than five I would think.

10 Q. And what was the nature of those depositions?

11 Why were you deposed before?

12 A. Litigation, real estate -- I mean, I don't know,

13 anything, a lot.

14 Q. Were they a case where you were a Plaintiff or a

15 Defendant?

16 A. Yes.

17 Q. So I'd assume you would remember cases if you

18 were a party, so tell me about the cases where

19 you were deposed where you were a Plaintiff or

20 Defendant because you were either being sued or

21 suing someone?

22 A. I don't remember, I don't -- a couple of real

23 estate cases.

24 Q. What would be the nature of those? What were you

25 fighting about?

1 Let's get back to the basic background.

2 Where do you currently reside? Where

3 do you live, Mr. Shumake?

4 A. Bloomfield Hills, Michigan.

5 Q. What's your address there?

6 A. 4676 Avondale Terrance.

7 Q. And how long have you lived there, Mr. Shumake?

8 A. Four years.

9 Q. Where did you -- is that a house or an apartment

10 or what kind of place is that?

11 A. A house.

12 Q. Do you own that or rent it?

13 A. Own it.

14 Q. Where did you live before that?

15 A. I had a couple of properties, like live-live or I

16 spend a lot of time overseas.

17 Q. What would you consider your primary place of

18 residence in the past five years other than the

19 Avondale Terrance?

20 A. I've spent time overseas in Tanzania, Kenya. 351

21 Keswick.

22 Q. Is that also in Bloomfield Hills?

23 A. Bloomfield Hills. I spend a lot of time

24 traveling, that's why --

25 Q. I'm not super familiar with Michigan. Is that a

1 A. Ownership possibly.

2 Q. And have you ever testified before in court?

3 A. I have.

4 Q. You have not testified in court?

5 A. I have.

6 Q. Oh, you have, and how many times have you

7 testified?

8 A. Twice.

9 Q. What cases did you testify in?

10 A. Testified in a California cases.

11 Q. What case was that?

12 A. That was a case recently where I was the --

13 thinking of the word what you would call it -- I

14 was on trial.

15 I testified at trial and then I

16 testified in front of the U.S. Attorney for a

17 case involving the ex-mayor Kwame Kilpatrick

18 here.

19 Q. Is that the Beasley case?

20 A. Yes.

21 Q. And the California case, is that the Shasta

22 County case that you're talking about, the

23 criminal one?

24 A. Yes, yes.

25 Q. So we'll talk about those in a bit, Mr. Shumake.

1 Detroit suburb?

2 A. Yes.

3 Q. Are you from the Detroit area?

4 A. I am.

5 Q. Have you lived there your whole life?

6 A. Detroit, Atlanta, California, Tanzania, Botswana,

7 been a lot of places.

8 Q. Are you from Nassau, did I see that somewhere?

9 A. Nassau, no, not --

10 Q. I must be thinking of somebody else.

11 Mr. Shumake, there is -- give me just a second

12 here -- there's an address listed on one of your

13 -- one of the things that we do, I'm looking at

14 Exhibit 11. It's not super important that you

15 look at it unless you really need to.

16 You responded to some questions that

17 the United States asked called special

18 interrogatories and you said that your address in

19 response to those was 18530 Mack Avenue, Grosse

20 Pointe Farms, Michigan.

21 A. That's accurate.

22 Q. What is that address?

23 A. Office address.

24 Q. Is that a UPS store?

25 A. Yes.

1 Q. What office -- what business or office? Is that  
2 just your personal like business address  
3 essentially?  
4 A. Right -- well, no, my office, my business  
5 address, where I have all my mail go to. I fill  
6 out all documents relating to that address.  
7 Q. That's just a UPS store where you go pick up  
8 things, pick up your mail basically?  
9 A. Correct.  
10 Q. And, Mr. Shumake, just going through my topics  
11 here I think you said you're -- how long have you  
12 been engaged to Ms. King who you mentioned  
13 earlier?  
14 A. About a year.  
15 Q. Have you -- I don't want to delve too much into  
16 your personal business, but have you ever been  
17 married?  
18 A. Yes.  
19 Q. Who were you married to before?  
20 MR. MICHAEL: I would object on the  
21 grounds of relevancy.  
22 MR. BAIN-CREED: That's fine, David.  
23 BY MR. BAIN-CREED:  
24 Q. Withdraw that question, Mr. Shumake. Did you go  
25 to college anywhere?

1 doctorate?  
2 A. Based upon my work I had done in the community.  
3 Based upon work I've done in my community.  
4 Q. Roughly when was that that they awarded you the  
5 honorary doctorate?  
6 A. Wow, between 2001 and 2003 maybe, I don't recall.  
7 Q. Roughly in the past 20 years you would say, is  
8 that accurate?  
9 A. That's correct.  
10 Q. Do you have any kind of degree or certification  
11 from something called the Larry Pino Institute of  
12 Finance, is that familiar?  
13 A. Yeah, that was some entity that no longer exists.  
14 It was a -- Larry Pino was the -- I can't  
15 remember that far back, but he was -- it was his  
16 school.  
17 Q. Did you attend school there?  
18 A. I took some courses there.  
19 Q. What kind of courses were those?  
20 A. Courses on factoring, PO financing, underwriting  
21 PO -- purchase order financing, underwriting. I  
22 learned about basis points and finance there.  
23 Q. Was that in the past 20 years, was it a fairly  
24 long time ago?  
25 A. Yeah, long long time ago. The actual name if

1 A. I did.  
2 Q. Can you tell us a little bit about where you went  
3 to college and what your major or majors was and  
4 what degrees you obtained?  
5 A. I went to Ferris State University, Northern  
6 Michigan and then I went to Morehouse College.  
7 Q. Okay. And did you get a degree from either of  
8 those institutions?  
9 A. I did not. I have an honorary doctorate degree  
10 from Lewis College of Business.  
11 Q. Just backing up for a second, we'll go to Lewis  
12 College in a second, Mr. Shumake.  
13 How long were you with Ferris and how  
14 long were you at Morehouse and what was your  
15 major?  
16 A. I don't recall. Say two years each place maybe.  
17 My major was psychology.  
18 Q. You did not obtain degrees from there, but you  
19 said you got an honorary doctorate from Lewis  
20 College?  
21 A. Of business, a historical black college,  
22 university.  
23 Q. What was the circumstances of them awarding you  
24 an honorary doctorate? What caused -- why did  
25 they tell you we want to give you an honorary

1 you're reading off where you're going, I think --  
2 I can't remember, it's something Cash Flow  
3 Institute. The founder of that school was Larry  
4 Pino.  
5 Q. Is that kind of like a continuing education or  
6 professional education program?  
7 A. No, it's like -- has nothing to do with  
8 continuing education, just something I wanted to  
9 learn how to underwrite deals, how to finance  
10 deals.  
11 Actually the building I'm sitting in  
12 right now, I almost bought this building, so I  
13 learned all of that at that school.  
14 Q. Let's fast forward away from education. Are  
15 there any other colleges or universities or any  
16 other education that you can remember in the  
17 past, say, 20 years?  
18 A. What do you mean by that?  
19 Q. Well, did you attend any other colleges, any  
20 other universities, any other continuing  
21 education courses?  
22 A. Not in 20 -- well, no colleges in that 20-year  
23 time period that I can think of.  
24 I can't remember. I've taken classes -- I  
25 wouldn't remember, I don't remember.

1 Q. Do you take like continuing education?

2 A. No, I study a lot so I wouldn't know. None that

3 I can think of.

4 Q. And let's talk about your employment,

5 Mr. Shumake. Where are you currently employed?

6 A. Self-employed.

7 Q. How are you self-employed? What's the nature of

8 your business?

9 A. What's the nature of my business?

10 Q. Yeah, what do you do for a living?

11 A. Real estate.

12 Q. What do you do in real estate?

13 A. Buy property, consult with property, underwrite

14 property, finance companies, structure deals,

15 consult. I'm an entrepreneur, I do a lot of

16 different things.

17 Q. Do you have like a business name that you operate

18 under?

19 A. Not particularly. I haven't had a business card

20 in 20 years, so I don't pass out cards. Most of

21 the things that I do are relationship driven.

22 Q. That was going to be my next question. Do you

23 advertise or is it word of mouth?

24 A. No advertisement, word of mouth.

25 Q. When you say property are you talking about

1 I understand what tax foreclosures are,

2 so I identify properties and I acquire those

3 properties or I consult for those properties.

4 It's limitless. Right now I'm overseas

5 doing projects in Africa developing and building

6 properties, so it's just -- it's a gamut of

7 different things, finance, development,

8 consulting, it's limitless.

9 Q. How much would you say on average per year let's

10 say from 2015 to now, how much would you say you

11 make -- you net per year?

12 A. I don't know. It's been a rough couple of years

13 lately.

14 Q. How about 2015 let's say?

15 A. I don't remember.

16 Q. Would you say more than \$100,000 you netted?

17 A. I don't recall, I'm not sure.

18 Q. Well, how about this, in 2015 would you say you

19 made \$50,000 or less?

20 A. 2015 -- I was just coming out of a bankruptcy in

21 2015 -- wait a minute; I don't remember.

22 Q. How about 2016, do you remember if you made

23 \$50,000 or less that year?

24 A. Nope, I don't remember.

25 Q. \$100,000 or less?

1 commercial property?

2 A. Commercial, residential.

3 Q. So you do any kind of property?

4 A. Commercial, residential, industrial. The

5 building we're sitting in right now was property

6 that I had under contract years ago to acquire,

7 so --

8 Q. Do you have a real estate license?

9 A. I used to have a broker's license. Never used it

10 though. Well, I did use it for a contract many

11 years ago and I don't need a license to do what I

12 do.

13 Q. How do you make money off your real estate

14 consulting, purchasing, financing business? How

15 do you make a living off of that?

16 A. What do you mean by that?

17 Q. How do you get paid from a deal?

18 A. Consulting fees. Someone calls me and wants to

19 know how to -- I teach a course on it. I'm sure

20 you've done some research. I've written books on

21 business and real estate and those things, so

22 I've taught courses. People pay me for that.

23 I introduce people to finance

24 opportunities and so they do the financing, I

25 receive fees off financing.

1 A. I don't remember.

2 Q. Any years from 2015 to now do you have a rough

3 idea of how much you made like say within \$50,000

4 just give us a range of how much money you netted

5 at any point in the past five years?

6 A. In 2015 I was mostly doing consulting work

7 overseas. I'm lost, my dates are off. Let's

8 see, I filed bankruptcy in 2013 -- '14? I don't

9 recall. My taxes would know, I did other

10 projects too.

11 Q. Before you --

12 A. Go ahead.

13 Q. Well, who files your taxes for you, Mr. Shumake?

14 A. I do.

15 Q. You prepare and file your own taxes?

16 A. No, I don't prepare them. UHY accounting firm,

17 top 20 accounting firms in the country -- or in

18 the world I think.

19 Q. And do you currently owe back taxes?

20 A. I do.

21 Q. Do you know how much you owe?

22 A. Oh, I don't know a specific amount, but it's a

23 few hundred thousand range.

24 Q. Few hundred thousand?

25 A. Yes.

1 Q. And do you know what tax years you owe the few  
2 hundred thousand dollars from?  
3 A. Oh, man. 2016, 2017 I think, I'm not sure.  
4 Q. And what kind of business were you in in those  
5 years that you owe the back taxes from?  
6 A. Oh, real estate and cannabis.  
7 Q. Tell me about the cannabis industry that you were  
8 in, what kind of cannabis business were you in?  
9 A. Licensed in California brokering cannabis deals.  
10 Q. Can you elaborate, what kind of cannabis deals  
11 would they be?  
12 A. What do you mean by that?  
13 Q. Well, I mean when you say brokering cannabis  
14 deals, to me that could mean brokering people to  
15 purchase and sell a bunch of marijuana or it  
16 could be real estate related to marijuana. I  
17 don't know, could be something else.  
18 Can you kind of just explain how you  
19 got involved -- how about this, we'll back up.  
20 Explain how you got involved in the  
21 cannabis business? When did you get involved in  
22 the cannabis business?  
23 A. 2015 I believe.  
24 Q. And how did that come about? Did somebody  
25 introduce the business to you? Did you seek it

1 I identified a property that was in the  
2 process of being licensed or in the process of  
3 being licensed or quietly grandfathered in, tied  
4 up that asset, and got that asset restructured  
5 for greater value.  
6 In addition to that particular asset I  
7 would broker deals through a non-profit benefit  
8 corporation. This is in California by the way  
9 before -- I forget -- Prop 64. I don't know the  
10 specific prop or law.  
11 Individuals that were a part of the  
12 non-profit could give donations to the  
13 organization or to an individual in that space  
14 and broker transactions because of the  
15 relationships that I had at the time through my  
16 resources or relationships.  
17 I filed taxes on that. That's kind of  
18 what created this tax obligation.  
19 Q. Mr. Shumake, just so I make sure I cut through  
20 all the things you just mentioned, let's start  
21 with the real estate.  
22 You said you identified a real estate  
23 and something about a license. What piece of  
24 real estate did you identify?  
25 A. I think I saw one of the exhibits, Louis

1 out? Explain to us how you got involved in this?  
2 A. I got involved in it -- well, you're asking the  
3 history of it. My secretary got me involved in  
4 it back in 2010. She -- when Michigan went  
5 medical she started working -- when she worked  
6 for me I think I was paying her about \$40,000 a  
7 year with no education and she had a son that had  
8 a rare disorder, so she started growing cannabis  
9 to help her son.  
10 And it went from growing cannabis to  
11 help her son to becoming a cannabis dealer and  
12 cannabis broker in that space. I started  
13 studying real estate deals that were in a  
14 cannabis space that were unlicensed and then  
15 licensed in those real estate deals for  
16 significant growth and expansion.  
17 And inside of doing that, that's kind  
18 of how I got tied into the cannabis space.  
19 Q. So correct me if I'm wrong, but you were  
20 essentially if someone wanted to invest in  
21 cannabis in some way you were helping them find  
22 investment opportunities?  
23 A. Not necessarily specifically helping them find  
24 investment opportunities. I did it during that  
25 time period was kind of a solo deal.

1 Armstrong and Associates is an entity that I  
2 created for the specific purpose. Louis  
3 Armstrong, a jazz musician, was a cannabis  
4 activist if you will and I created a company, not  
5 for profit and a for profit specific for that  
6 purpose initially.  
7 Then I found a property and tied up  
8 that property as Louis Armstrong and Associates  
9 and acquired an asset as Louis Armstrong and  
10 Associates, so that's a name of the entity that I  
11 used to acquire the asset and to broker the  
12 transaction.  
13 That asset right now is licensed with  
14 the State of California in cannabis.  
15 Q. And so to make sure the record is clear, we're  
16 talking about 3500 Via Real, Carpinteria,  
17 California?  
18 A. Yep, that's correct.  
19 Q. So was Louis Armstrong and Associates a  
20 for-profit entity that you set up?  
21 A. For profit and non-profit, two separate.  
22 Q. And a non-profit?  
23 A. Louis Armstrong and Associates, Incorporated and  
24 Louis Armstrong and Associates -- I don't know if  
25 it's LLC, I'm not sure of the legal structure,

1 but there's a for profit and non profit.

2 Q. Can you explain that to me, Mr. Shumake, how does  
3 it have a for profit and a non-profit side and  
4 what does each one do?

5 A. The for-profit side deals with things that do not  
6 have anything to do with the actual plant itself,  
7 like the land and the actual asset is in a  
8 for-profit side, the farm on 3500 Via Real Road  
9 is on the for-profit side.

10 The non for profit side based upon  
11 California law at the time were in -- things that  
12 touched the actual plant.

13 Q. So what would be things that touch the actual  
14 plant, can you elaborate for me?

15 A. Could be nutrients, could be materials, could be  
16 potting, all those various different things that  
17 were in the plant world.

18 Q. So just so I understand because I am actually a  
19 little bit confused. So the non-profit side, how  
20 you would -- you were soliciting donors or how is  
21 it a non-profit?

22 I guess are you developing medical  
23 marijuana? Like what makes a non-profit side?

24 A. In the California law at the time they had -- I'm  
25 trying to think of the word for it -- it's

1 collectives.

2 So people that joined your collective,  
3 they're part of your collective and they had  
4 their cannabis license if you will, then they  
5 could -- you could interact and do trading as  
6 long as you guys were a part of the same  
7 collective organization. That's called a  
8 non-profit mutual benefit corporation.

9 Q. And was this all medicinal or was some of it  
10 recreational or --

11 A. At the time it was all medicinal. There was not  
12 recreational during that time period.

13 Q. And were you the CEO of Louis Armstrong and  
14 Associates?

15 A. I was, founder and CEO.

16 Q. And did you have to invest money -- did you  
17 personally or anybody else have to invest money  
18 to purchase that Via -- I'm sorry, I've forgotten  
19 the address, but the Carpinteria, California  
20 property that we mentioned earlier?

21 A. Yes, I raised capital to buy it.

22 Q. How did you raise the capital?

23 A. Through relationships or resources.

24 Q. And when was that that you raised the capital?

25 A. I don't remember.

1 Q. Was it 2015 or 2016?

2 A. I don't remember, I'm not sure. I think it was  
3 2016, I don't know, I can't -- it's foggy, I  
4 can't remember the dates. I just know what I  
5 did.

6 Q. How much capital did you raise?

7 A. About \$5 million, \$4 or \$5 million.

8 Q. Who did you raise that from?

9 A. George, I forget his actual name.

10 Q. George is the first name?

11 A. Uh-huh.

12 Q. Is that the only person or did you raise it from  
13 other people?

14 A. One group brought the bulk of the capital.

15 Q. Is this the -- George, was that someone  
16 associated with G Boys or is that a different  
17 group?

18 A. Yes, that's correct, G Boys, they brought the  
19 capital to the table.

20 Q. I'm sorry, Mr. Shumake, could you repeat that?

21 A. I said the G Boys group brought George to the  
22 table who put up all the money. I found the  
23 asset.

24 Q. How would you go about raising capital, meaning  
25 did you approach people in person or how do you

1 promote this is a manner that people decided they  
2 wanted to give you capital for this project?

3 A. How did I promote it, what do you mean?

4 Q. Well, I mean somebody had to know that you were  
5 looking at cannabis real estate, they had to  
6 decide I want to give money to this gentleman to  
7 start a to business, so how did you come about  
8 meeting the people who gave capital?

9 A. I've known him for 20 years, long-term  
10 relationships.

11 Q. So these were long-term people when you said I  
12 have this business opportunity, would you like to  
13 invest?

14 A. Yes.

15 Q. Did you put any of your own money into the  
16 purchase of this -- let me back up a little bit.

17 Do you own this or does Louis Armstrong  
18 and Associates own this Carpinteria property?

19 A. It's a lease option.

20 Q. Did you put any of your own money in there?

21 A. I did.

22 Q. How much of your own money?

23 A. I don't remember.

24 Q. Like hundreds of thousands of dollars or --

25 A. I don't remember.

1 Q. Let me just go through since we're talking about  
2 this property, is the case Robert S. Shumake  
3 Living Trust versus Jason Q. Wilson, that's the  
4 case out of Superior Court in California in Santa  
5 Barbara County, is that the case in regard to  
6 this property?

7 A. It is.

8 Q. Can you tell us how that case came about, what  
9 happened to prompt that lawsuit?

10 A. What prompted the lawsuit was -- a unique way of  
11 explaining it -- those guys or I put together the  
12 deal on the asset and they wanted to find a way  
13 to take me out of the property.

14 So they put up all the money and they  
15 created a fraudulent corporation to transfer all  
16 of our ownership into another corporation that I  
17 had recorded the information, had it on tape.

18 And I got another group that they were  
19 going to transfer the company into. The guy  
20 called me and told me what they were trying to  
21 do, and so I sued them.

22 Q. So you had put together Louis Armstrong and  
23 Associates, the profit and non-profit side, and  
24 recruited all these individuals that are involved  
25 in this lawsuit, is that correct?

1 A. Correct, and they tried to steal the property  
2 from underneath me to go out and partner with  
3 someone else.

4 Q. And then you -- did you thereafter have another  
5 entity that was going to try to buy the property  
6 and exercise your option to buy out these folks  
7 who were wronging you?

8 A. I did. I put together a -- I sort of flipped the  
9 asset by itself to a publicly traded company --  
10 what's the name of that company -- and pay the  
11 guys off.

12 Q. Was it Trans-Atlantic?

13 A. No, it was GreenGro.

14 Q. GreenGro, I think we have a -- give me just a  
15 second, Mr. Shumake.

16 MR. MICHAEL: That's one of your  
17 exhibits.

18 MR. BAIN-CREED: I think it is too.

19 BY MR. BAIN-CREED:

20 Q. So, anyway, Mr. Shumake, while we're looking for  
21 that, you put together GreenGro to try to  
22 exercise your option to purchase all of the  
23 remaining shares of the Louis Armstrong and  
24 Associates?

25 A. Essentially, yes.

1 Q. How did you -- did you have to put money into  
2 GreenGro? Like how did you raise money to fund  
3 GreenGro to exercise your option?

4 A. I didn't own GreenGro. GreenGro was owned by  
5 another company. They signed an LOI with me and  
6 my interest or my option in the company to buy it  
7 for, I want to say, \$40 million, which is what  
8 the property appraised for after I tied it up.

9 So I tied the property up for \$5  
10 million, I raised \$4 million or \$5 million and  
11 after the property was licensed or stabilized it  
12 appraised at \$40 million, so I was going to sell  
13 the whole asset for \$40 million, pay off the  
14 property, pay back all the investors and then  
15 move on down the road.

16 DEPOSITION EXHIBIT 20

17 letter, 6-29-18

18 WAS MARKED FOR IDENTIFICATION.

19 Q. So, Mr. Shumake, if you'd turn to Exhibit 20, you  
20 should have a binder or some kind of paper  
21 exhibits there that you can look at.

22 (A short recess was taken).

23 BY MR. BAIN-CREED:

24 Q. We're back on the record, Mr. Court Reporter.  
25 We're on Exhibit 20. Mr. Shumake, we took a

1 brief break here. Did you talk to anybody about  
2 the deposition during that time?

3 A. No, I did not.

4 MR. MICHAEL: Exhibit 20?

5 MR. BAIN-CREED: Yeah, David, that's  
6 the GreenGro Technologies --

7 MR. MICHAEL: I just had to open that  
8 up, I'm ready.

9 BY MR. BAIN-CREED:

10 Q. Mr. Shumake, this Exhibit 20, is this the  
11 document you were referring to a moment ago in  
12 regard to the letter of intent?

13 A. I believe so. Is this the one that you guys got  
14 off the OTC platform, public information? It was  
15 multiple documents, I don't know, that's why I'm  
16 asking.

17 Q. I believe this is probably public information,  
18 Mr. Shumake. Can you tell me what is the OTC  
19 platform?

20 A. OTC is over the counter, it's for publicly traded  
21 companies, so over the counter, this company  
22 GreenGro it says publicly traded, so it would  
23 have been in their filings.

24 Q. And this is an accurate copy of an agreement  
25 signed by you with GreenGro on June 29, 2018?

1 A. That is correct.

2 Q. And just trying to back up and figure out where

3 we were. GreenGro was essentially, you were in

4 an agreement to buy out your partners with whom

5 you had a dispute in Louis Armstrong, is that

6 correct?

7 A. That's correct.

8 Q. And were you able to buy out those partners

9 ultimately?

10 A. I did not.

11 Q. So tell us about this, I guess give us the rest

12 of the story about the Shumake Living Trust

13 versus Jason Q. Wilson Trust case.

14 What was the resolution of that case?

15 Was it resolved?

16 A. Still ongoing right now.

17 Q. Okay. Tell me about the Defendants in that case

18 if you would. Who is -- is there a Mr. Wilson?

19 A. Jason Wilson, Michael DeSalvo, John Goldstein,

20 George -- I don't know George's last name, but

21 that's Lone Star Properties.

22 So there are multiple owners of this

23 company. I started Louis Armstrong and I was a

24 partner in Louis Armstrong along with Jason

25 Wilson, G Boys and Pacific First Capital, Lone

1 case?

2 A. No, not that I know of. I don't know why they

3 would be a part of that. Why would they be aware

4 of that, I'm lost?

5 Q. Have you told them about it?

6 A. Tell myself about it? I'm confused.

7 Q. Well, we'll get to the International Human Rights

8 Commission in a moment, but they are not aware of

9 this case? You were aware of it of course

10 because you filed it.

11 So is there actually cannabis being

12 grown at the Via Real property?

13 A. Yes.

14 Q. Who's growing the cannabis?

15 A. Louis Armstrong and Associates.

16 Q. How many employees are there?

17 A. Probably about 30.

18 Q. And did Louis Armstrong and Associates sell that

19 to retailers or what happens to the cannabis

20 that's grown there?

21 A. Based upon the laws in California now it's sold

22 to -- it's all recreational. Retail

23 dispensaries, medical, it's the whole gamut of

24 it, wholesalers.

25 Q. And does that net a profit for Louis Armstrong

1 Star Properties.

2 Okay, I got it. This was a company,

3 the Pacific First company, that was a group that

4 they tried to do an underhanded deal with and

5 this guy called me.

6 Q. And then the other folks you named, G Boys, De

7 Salvo, Wilson, these are people who you were

8 partnering in Louis Armstrong with?

9 A. Correct.

10 Q. And we got a little thrown off by our break there

11 so we're going to try not to take breaks like

12 that again, Mr. Shumake.

13 But did you answer the question, where

14 did you derive money for this Louis Armstrong

15 investment or for the Via Real investment?

16 A. The G Boys and Lone Star Properties brought the

17 capital to the table.

18 Q. Right and I believe you probably answered this,

19 but did you put any of your own personal money

20 in?

21 A. Yes, I just don't know the amount, I don't

22 recall.

23 Q. Is the International Human Rights Commission

24 aware of this dispute that you have in the

25 Shumake Living Trust v Jason Q. Wilson Trust

1 and Associates?

2 A. It hasn't in years, it's been a loss.

3 Q. Do you take the money from that sales and pay for

4 the employees there?

5 A. We do. Remind you, I'm not as involved in the

6 project directly because we're in litigation so

7 some of the things that you may ask me I wouldn't

8 know all the answers to presently.

9 Q. Does Louis Armstrong and Associates bank with a

10 bank out there or how does it handle its money?

11 A. We used to bank with a few banks, but those banks

12 shut us down.

13 Q. So let's say you have to pay for something on you

14 take in some money, is that just handled in cash?

15 A. Cash.

16 Q. Why did the banks shut you down, Mr. Shumake,

17 shut down Louis Armstrong and Associates?

18 A. They -- there's a big issue between banks and

19 cannabis, so -- and what's interesting we went to

20 the bank and shared with the bank that this is a

21 cannabis business, are we able to deposit funds

22 into the bank and the bank allowed for that to

23 happen.

24 Then as you move forward the compliance

25 people now were just higher than the general

1 manager of the bank, because of their own  
2 compliance issues they shut down the account.  
3 This has happened on numerous occasions in the  
4 cannabis industry.

5 Q. So you're dealing in cash in this business. I  
6 don't want to cause you security problems, but  
7 how do you deal -- is it 10s of thousands of  
8 dollars in cash every month or hundreds of  
9 thousands or thousands? Roughly what amount?

10 A. All of the above.

11 Q. So it can be a large amount of money in the  
12 hundreds in a given month?

13 A. Absolutely.

14 Q. And how does the business Louis Armstrong  
15 transport that cash and how do they store it  
16 generally? Is there a safe? Do you contract  
17 with Loomis, is there a safe, is there a safe  
18 deposit box?

19 A. There are transportation companies that are  
20 licensed to move money around the state for you  
21 if you drop off -- use as an example 100 pounds  
22 of cannabis to a dispensary, they are licensed  
23 armored car facilities that look like regular  
24 vehicles that pick up your capital and bring it  
25 back to you.

1 It's a standard practice. Some of the  
2 largest cannabis companies that -- Kiva  
3 Chocolates which is now a worldwide phenomenon  
4 pays in cash. So we would supply them cannabis  
5 or trip of a cannabis and they pay in cash. This  
6 is a major, major, major corporate that pays in  
7 cash, so that's just industry standard. They're  
8 the largest chocolate company in California

9 Q. So, Mr. Shumake, your customers are in California  
10 and there would be retailers -- do you have  
11 customers anywhere else?

12 A. I wouldn't, no, not for the California property.  
13 You can only do cannabis in California.

14 Q. So what percentage would you say in recreational  
15 and what percentage in medical?

16 A. I have no idea, I don't dig that deep into it.  
17 At one time it was all medical and now, of  
18 course, it's all recreational. It's  
19 recreational, so you don't -- it's totally  
20 different and I know you guys are in North  
21 Carolina, it's a different world than California  
22 literally.

23 Q. Mr. Shumake, I'd like to -- yeah, it is a  
24 different place for sure. I'd like to look at  
25 your declarations from that case really quickly

1 and just have you kind of explain the statements  
2 to me. Give me just a second, I'll tell you  
3 where I want you to go.

4 If you will look at Exhibit 27.

5 MR. MICHAEL: I also have Exhibit 27 in  
6 front of me also on my screen.

7 DEPOSITION EXHIBIT 27

8 Complaint for Declaratory Relief,  
9 etc. Shumake v Wilson

10 WAS MARKED FOR IDENTIFICATION.

11 Q. Mr. Shumake, you're going to have to rifle  
12 through this exhibit for a bit to get to where I  
13 want you to be, but if you go -- let me count how  
14 many pages you need you to go into it.

15 MR. MICHAEL: Can you describe it,  
16 Mr. Bain-Creed?

17 BY MR. BAIN-CREED:

18 Q. Mr. Shumake, what is this document I've put in  
19 front of you, will you describe it to me?

20 A. It's a lawsuit.

21 Q. Is that your Shumake v Wilson lawsuit?

22 A. Correct.

23 Q. Can you go to Exhibit -- there are some exhibits  
24 to that Complaint, correct, Mr. Shumake, that's  
25 the Complaint in front of you?

1 A. I don't know what exhibit -- I haven't seen  
2 anything yet, so you have to be more specific.

3 Q. You got to go about 30 or 40 pages in and there's  
4 an Exhibit G?

5 A. Exhibit G.

6 Q. It's literally about halfway through that  
7 document that you have. It's your declaration.

8 A. Exhibit G.

9 Q. Take your time and read it if you need to.

10 MR. MICHAEL: Mr. Bain-Creed, I don't  
11 see Exhibit G being a -- oh, here it is, it's the  
12 second part of Exhibit G.

13 THE WITNESS: I don't see that. It's  
14 a number that says Exhibit G.

15 MR. MICHAEL: And at the end of the  
16 letter is your declaration.

17 BY MR. BAIN-CREED:

18 Q. It's going to be titled "Declarations of Robert  
19 Shumake and Robert Shumake and Rafael Bernardino,  
20 Jr In Support of Motion for Preliminary  
21 Injunction".

22 If you were sitting in the room with me  
23 I would put it in front of you, but unfortunately  
24 we have to do it this way.

25 A. I don't see it. Can you show it to me? If you

1 lift it up, I can look for it.

2 Q. Gentlemen, this is what it looks like  
3 (indicating.)

4 MR. MICHAEL: Part of Exhibit G,  
5 Mr. Shumake, part of Exhibit G so keep going  
6 through Exhibit G and you'll find your  
7 declaration after the letter from the person that  
8 received your declaration, it's still part of  
9 Exhibit G.

10 BY MR. BAIN-CREED:

11 Q. Mr. Shumake, it's okay, I can just read you the  
12 statement if you want. Let me just show you on  
13 Exhibit G, it's a declaration and it's got a  
14 signature on it. I'm holding it up for you right  
15 now, it's a signature page, Page 12 of the  
16 declaration on Exhibit G (Indicating).

17 A. Okay.

18 Q. Just generally the thing I'm holding on the  
19 screen, does that look like your signature

20 A. Who knows, could be.

21 Q. Could be your signature?

22 A. Yeah. It doesn't 100 percent look like my  
23 signature, but it may be an electronic signature.

24 Q. Did you prepare a declaration or did you sign a  
25 declaration in your Shumake v Wilson case?

1 A. I believe so, the attorney would have drafted it  
2 for me. Let's see here.

3 Q. And is Rafael Bernardino one of the attorneys?

4 A. That's correct.

5 Q. Mr. Shumake, I just want to figure out what you  
6 meant in a sentence in this declaration, that's  
7 all. If you don't find the declaration, it's  
8 fine, it's a properly filed document in court in  
9 a case that you initiated.

10 So essentially there's a sentence in  
11 here, a couple of sentences --

12 (TECHNICAL VIDEO PROBLEMS.)

13 BY MR. BAIN-CREED:

14 Q. Mr. Shumake, we just took a brief break there  
15 because Mr. Michael was having some problems with  
16 his Internet provider, but he's re-joined us on  
17 his cell phone and we're able to see him and he  
18 is able to hear us.

19 So we'll just continue here. I was in  
20 the process of asking you about this declaration  
21 and really you don't need to find it and look at  
22 it, but essentially what I was going to ask you  
23 about is there's a statement in your declaration  
24 in the Shumake Trust v Wilson case that says if  
25 the federal government -- and this is a quote,

1 "If the federal government decides to  
2 enforce federal narcotics laws in  
3 states where cannabis is currently  
4 lawful, the value of the property will  
5 be significantly reduced".

6 Could you explain what that statement  
7 means?

8 A. That came out of a business plan, some real  
9 research that I had studied from -- what's the  
10 name -- Innovative Industrial Properties that are  
11 traded on the New York Stock Exchange. And it's  
12 a part of their disclosure statement and so  
13 that's a direct quote from that vantage point.

14 From the federal laws of course it's  
15 like -- when it's 100 percent legalized from a  
16 federal standpoint the property values depreciate  
17 and it changed based upon states that it's  
18 legalized.

19 So as an example in California in Santa  
20 Barbara that farm specifically used to be a tulip  
21 farm, but in Santa Barbara they passed cannabis  
22 legislation in that particular area and there are  
23 only so many tulip farms. And so when you start  
24 to identify real estate it's highest and best  
25 usage of that asset.

1 So the highest and best usage 20 years  
2 ago was a tulip farm. The highest and best usage  
3 today is cannabis because you can generate more  
4 value based upon that asset being a cannabis  
5 piece of real estate than a tulip farm.

6 And so if you legalize the entire  
7 platform, that means all property in Santa  
8 Barbara, all properties in California, all  
9 properties across the country are now just  
10 regular assets.

11 So it doesn't give it any true value,  
12 no different than having a hospital license. A  
13 hospital that's now licensed in a particular area  
14 has a specific license on that hospital. It's a  
15 piece of real estate that is worth X if you build  
16 it, but if you put a hospital license on it it  
17 has more value.

18 No different than a cannabis, that  
19 property is worth X, but if you put a cannabis  
20 license on top of it it's now worth Y which is an  
21 example of, as I was sharing earlier, the  
22 property was worth \$6 million and now it's  
23 licensed as a cannabis property, it's worth \$40  
24 million.

25 Q. So kind of flushing this out, setting aside state

1 law, under federal law at the time that you wrote  
2 this declaration and you were selling cannabis  
3 out of this property selling cannabis was  
4 illegal?

5 A. Federally cannabis is still a Schedule 1 right  
6 now federally. Presently it's still that way  
7 which is why the banks would not allow you to  
8 deposit money because most of your banks are  
9 federally chartered.

10 Q. Thank you, Mr. Shumake. Moving to a related  
11 topic, did you ever use this property in  
12 Carpinteria, California, the Via Real property,  
13 did you ever use it for fundraising purposes?

14 A. Are you asking me about the Trans Atlantic real  
15 estate that is registered on the same property?

16 Is that what you're asking me about?

17 Q. Well, you tell me, what happened with the Trans  
18 Atlantic real estate, what is that?

19 A. Trans Atlantic was a crowdfund that was utilized  
20 to raise capital to acquire -- one of the ways to  
21 raise capital to acquire multiple assets, one of  
22 which was the property in Carpinteria.

23 That property of course is now in  
24 litigation or became in litigation so you  
25 couldn't utilize it for that specific purpose.

1 Q. So tell me if you would how a conversation with  
2 someone about Trans Atlantic would go or tell me  
3 did you go out and solicit investors in Trans  
4 Atlantic?

5 A. No, I didn't, I was not the owner of Trans  
6 Atlantic Real Estate.

7 Q. Okay, so --

8 A. So what I did -- and I see it -- I don't know if  
9 it's in the documents, but my ownership interest  
10 allowed me to meet any and all offers against  
11 that property.

12 And so -- and I believe Pacific First  
13 properties, I don't know the -- Pacific First  
14 Capital Group put an offer in that was accepted  
15 by the other parties in the company, so I had the  
16 ability to match or meet that offer.

17 So in having an ability to match or  
18 meet the offer I created an LOI with GreenGro  
19 Technologies, one, and also an agreement with  
20 Trans Atlantic Real Estate.

21 Q. So the GreenGro and the Trans Atlantic were ways  
22 that you were trying to raise money to buy out  
23 the other partners?

24 A. Correct, one of the ways.

25 Q. And the collateral that people who were giving

1 money would have with some interest in Louis  
2 Armstrong or the real estate or both?

3 A. It wouldn't be collateral, it's not collateral,  
4 it's a member interest, it's an option. So I had  
5 an option to buy out my partners and through that  
6 pledge I guess then I could leverage that option  
7 to buy out the partners.

8 Q. And I think we're going to move on a bit,  
9 Mr. Shumake, but do you have any interest,  
10 management, ownership, any other interest in any  
11 other cannabis business?

12 A. What do you mean?

13 Q. Well, you got this Louis Armstrong and Associates  
14 which sounds like owns property and sells  
15 cannabis. Are there any other cannabis  
16 businesses that you have any kind of interest in,  
17 management, investing, own any other cannabis  
18 businesses?

19 A. Several. I just don't know -- I can't say --  
20 mostly on a consultancy basis. I'm in Michigan  
21 now, I consult with groups on how to set up a  
22 cannabis business.

23 Q. But are those groups based on Michigan or are  
24 they based in other states?

25 A. Right now that's in Michigan. I have consulted

1 with groups in Africa, Ghana, Tanzania, Jamaica.

2 Q. Are these -- sorry, go ahead.

3 A. St. Vincent -- just all over, across the world.

4 Q. How about in 2016 were you engaged in any of this  
5 other cannabis business in addition to Louis  
6 Armstrong and Associates?

7 A. I don't know. You got to give me more specifics.

8 Q. Well, sounds like you're a consultant for  
9 cannabis businesses. Were you doing any  
10 consulting work for cannabis businesses in 2016?

11 A. Possibly.

12 Q. You don't --

13 A. I don't have a specific answer to that question  
14 because you got to --

15 Q. Okay, let me --

16 A. As an example, in the cannabis industry a  
17 consultant could just, say call this guy as an  
18 example; that's consulting.

19 And, you know, this is where you go to  
20 go buy your materials; that's consulting. It's  
21 an open-ended industry so it's not like any other  
22 business that you would frame and organize.

23 Not all the time are there contracts,  
24 they're handshake deals. It's a whole different  
25 industry. Reminds me of businesses over in

1 Africa where it's cash and it's handshakes and  
2 that's how things are done.

3 And that's a plus and a minus. The  
4 minus is you're not going to remember all the  
5 people you've interacted with and so when I say  
6 possibly, you'd have to ask me a specific  
7 question because it's such an open-ended  
8 statement.

9 Q. How about this, Mr. Shumake, and I'm not asking  
10 you about any particular business, but have you  
11 been engaged in some form in the cannabis  
12 business, either consulting or with Louis  
13 Armstrong, for more than five years?

14 A. Yes, or five years or longer.

15 Q. Five years or longer, got it. Mr. Shumake, thank  
16 you for that. Let's talk a little bit about a  
17 different topic. Give me just a second.

18 Let's talk about the seized currency in  
19 this case, it was seized in June, 2016.

20 When did you find out that -- I'm just  
21 going to refer to it as "the currency", but just  
22 for the record it's \$252,140 that's a Defendant  
23 in the civil forfeiture case.

24 When did you find out that that  
25 currency was seized?

1 Where had you been?

2 A. I don't remember. That part I don't know. I  
3 travel a lot, I do not recall.

4 Q. Did you possess the currency prior to its  
5 seizure? Did you ever lay your hands on the  
6 currency?

7 A. Some of it, yes.

8 Q. Can you explain what currency you had your hands  
9 on and the circumstances of that?

10 A. The circumstances I had organized a few  
11 fundraisers in the Atlanta marketplace and I  
12 believe you have that.

13 Q. Tell me about those if you would, Mr. Shumake,  
14 because part of the purpose of today is for us to  
15 hear from you, you get to explain in a  
16 conversation with us about that fundraiser and  
17 you tell us -- you answer questions.

18 So can you tell us where did you have a  
19 fundraiser in the Atlanta area, where was that?

20 A. It was multiple fundraisers. I think when the  
21 officer called me he asked me about the two party  
22 fundraiser in the hotel room. That wasn't -- of  
23 course no one is comfortable with talking to law  
24 enforcement, but the totality of it there were  
25 basketball games that were happening in --

1 A. When I got a telephone call.

2 Q. Who called you?

3 A. I want to believe it was Darren Coleman. I don't  
4 know if he called me or the officer called me, I  
5 can't remember, but --

6 Q. Was that around June 27, 2016, does that sound  
7 right?

8 A. I believe so.

9 Q. And where were you when you got that call?

10 A. I don't remember.

11 Q. Do you remember what city you were in?

12 A. I have no idea. I was either in Georgia,  
13 California -- I don't know, Detroit, I don't  
14 remember where I was at.

15 Q. What was the nature -- this is a discussion from  
16 for Mr. Coleman or from a member of law  
17 enforcement?

18 A. I think we were on speaker phone.

19 Q. So Mr. Coleman and a member of law enforcement  
20 maybe?

21 A. I believe so, yes.

22 Q. And that's how you found out that this currency  
23 was first seized. Where had you been in, let's  
24 say, a day or two prior to finding out that the  
25 currency was seized?

1 pick-up games in Atlanta and some of the artists,  
2 rappers and individuals who were contributing to  
3 those projects.

4 I had met Young Thug and part of my  
5 resources with the International Human Rights  
6 Commission, my specific mandate was to do water  
7 -- I had been doing this long before the  
8 International Human Rights Commission -- water  
9 treatment facilities, housing and so developing  
10 housing in Africa to build homes in these third  
11 world countries. That was kind of my pitch and  
12 been talking with people about doing that work  
13 and so that's how I was able to raise the  
14 capital.

15 Q. So basketball games in the Atlanta area, were  
16 these in June, 2016?

17 A. I don't specifically remember the timeline that  
18 they were happening in. I think it was  
19 throughout the entire -- as I understand it the  
20 entire year of games.

21 Q. Did you attend any of the games?

22 A. No, I didn't -- well, I think I went to one of  
23 the games. No, I'll just say no.

24 Q. You did not attend any of the games?

25 A. No, I did not.

1 Q. Did Young Thug -- what's his given name?  
 2 A. I have no idea.  
 3 Q. Did Young Thug, did he tell you what he had told  
 4 the people who attended these basketball games  
 5 about the charity that he was supporting?  
 6 A. I don't remember, I don't remember. I met him in  
 7 his office and talked about and thanked him for  
 8 his contribution and what we're about and what  
 9 we're doing and what we're a part of.  
 10 He was happy to help out helping in the  
 11 Caribbean and also in the African marketplace in  
 12 Africa.  
 13 Q. Mr. Shumake, did you seek him out, seek out Young  
 14 Thug, or did he seek you out?  
 15 A. I sought out people to help me with this project.  
 16 He was one of the individuals that came to the  
 17 table.  
 18 Q. When did you first meet him, was it just before  
 19 the seizure or for a long time before?  
 20 A. Shortly -- sometime before I would think, I don't  
 21 remember.  
 22 Q. Would you have met him in --  
 23 A. In Atlanta, yes.  
 24 Q. -- just before?  
 25 A. A few months before I would think. I can't

1 he told the donors at the games. That part I'm  
 2 unaware of.  
 3 All I know when I met with him he was  
 4 happy to be a part of what we were doing. I took  
 5 a photo with him, I gave him an award from the  
 6 International Human Rights Commission, that's the  
 7 long and short of it.  
 8 Q. So you reached out to him at some point in 2015,  
 9 2016 and you said I've got water treatment  
 10 facilities I'm trying to fund, are you  
 11 interested?  
 12 A. Correct.  
 13 Q. And then he did basketball games and raised  
 14 money, but you're not sure --  
 15 A. I don't know how many games he had, I don't know  
 16 any of that. My primary indirect person was  
 17 Marie Ali and when I met him he was just happy to  
 18 be a part of what we were doing.  
 19 Q. Do you have any pictures of the wells or any kind  
 20 of documents or anything like that that you  
 21 provided to him?  
 22 A. Yes, I got pictures, videos, all on my Facebook  
 23 page.  
 24 Q. Did you provide those to him when you met with  
 25 him?

1 remember, I don't know.  
 2 Q. Did he talk with you about setting up the  
 3 basketball games?  
 4 A. No, it was just something he was already a part  
 5 of and mostly he had an intermediary -- gosh,  
 6 what is that lady's name -- your agent talked to  
 7 her. I don't know her name, I can't remember her  
 8 name.  
 9 Q. Nicole Birch?  
 10 A. No, a young lady that -- Nicole Birch is my  
 11 attorney.  
 12 Q. Was it Marie Ali?  
 13 A. Yes, I think that's Marie Ali, yes.  
 14 Q. What was Ms. Ali's role?  
 15 A. She was kind of the coordinator over the games  
 16 and working directly with Young Thug.  
 17 Q. Was it your understanding that all the money from  
 18 those games was given to the International Human  
 19 Rights Commission or was the donations split up  
 20 in some way?  
 21 A. What do you mean?  
 22 Q. I mean if Young Thug had basketball games, are  
 23 you saying you're not sure what he was telling  
 24 donors at those games?  
 25 A. I don't know anything about that part of it, what

1 A. He seen them, yes.  
 2 Q. Were those produced in this case?  
 3 A. I want to say yes. I'm almost certain that he's  
 4 seen everything that we've done up to that point  
 5 and what we were trying to work on. On the  
 6 housing side we were not able to -- at the time  
 7 to complete that process because the monies were  
 8 seized.  
 9 And so we had acquired a contract for  
 10 technology to build homes on the continent of  
 11 Africa on undervalued property. It's like you  
 12 build a house in less than 30 days and so it was  
 13 technology that we're raising this capital in  
 14 order to build the property and we never had the  
 15 opportunity to do that.  
 16 Q. So I would ask you to consult with your attorney  
 17 because if there's documents that has something  
 18 to do with what you told Mr. Thug, Young Thug, we  
 19 haven't seen those in this case, so I'd like to  
 20 see those.  
 21 How does Young --  
 22 MR. MICHAEL: I've made a note of that,  
 23 Mr. Bain-Creed and if there's some documents that  
 24 we can produce that will assist the government in  
 25 terms of what Mr. Shumake has testified to, we'll

1 provide them to you.

2 A. The documents that I gave to Young Thug or I know  
3 there's a donation letter that he received, a  
4 donor's letter. Is that what you're referring  
5 to?

6 BY MR. BAIN-CREED:

7 Q. Mr. Shumake, we have the donor's letter, but I'm  
8 asking you what did you tell Young Thug before he  
9 gave any money, what did you provide to him  
10 before he gave any money and what materialized  
11 out of those projects that you told him about and  
12 it sounds like you're saying that the projects  
13 did not materialize, is that correct?

14 A. The water project materialized, that was ongoing,  
15 but in order to do the housing project required a  
16 lot more capital and so when those funds were  
17 seized we were not able to complete the total  
18 project.

19 Q. Mr. Shumake, were you aware that Young Thug was  
20 arrested in Georgia around the time of him  
21 purportedly turning over the currency to you?

22 A. I just recently found -- not just recently, but  
23 several years back I found out that he was  
24 charged with some kind of crime. I don't know  
25 the specifics of that.

1 Q. Sounds like -- do you recall him being charged  
2 with drug trafficking?

3 A. I don't -- I thought it was smoking or something  
4 else that he had. I don't know all the specifics  
5 of it. When did that happen by the way? I'm not  
6 sure -- in fact, it was after that took place.

7 Q. I'm not sure, Mr. Shumake. I don't have the  
8 exact date in front of me. Did you meet anybody  
9 else from -- that's YSL Group that Mr. Young Thug  
10 is affiliated with, correct?

11 A. Correct.

12 Q. Did you meet any other people from YSL Group?

13 A. I wouldn't remember their names and I met the  
14 lady Maria. I met him in a studio, music studio.

15 Q. That's in Atlanta?

16 A. Yes.

17 Q. So Young Thug, was he the only person who gave  
18 you -- I'm trying to -- back up here a little  
19 bit, Mr. Shumake.

20 You obtained the currency where in

21 Atlanta?

22 A. In Atlanta.

23 Q. Where in Atlanta?

24 A. Oh, in the hotel.

25 Q. What hotel?

1 A. Ritz Carlton at the time.

2 Q. Who booked the room?

3 A. I think I did. I'm not sure, me or my secretary,  
4 I don't recall.

5 Q. What's your secretary's name?

6 A. Who would have booked that room at the time? Was  
7 that 2016?

8 Q. Yes.

9 A. I don't recall, I'm not sure.

10 Q. Would it be booked in your name?

11 A. Maybe, I'm not sure. Could have been in Mickey  
12 Mouse, I'm not sure, like literally.

13 Q. Can you just tell me -- give me a list of what  
14 names you think it might have been booked under  
15 so that we can figure that out?

16 A. Darren Coleman had a room, I had a room. I can't  
17 remember it's been so long ago, I don't recall.  
18 I know I stayed there, I do know that.

19 I'm sure if you pull up your video  
20 footage, I was there, I spent the night in the  
21 hotel.

22 Q. So tell me about the individuals who gave you the  
23 money. They gave you the money in the hotel?

24 A. Yes.

25 Q. In your hotel room?

1 A. Correct.

2 Q. How many people was it?

3 A. Two people, maybe a small group of people.

4 Q. I'm sorry, two or three, is that what you said?

5 A. Yes.

6 Q. And how did that come about? Did you invite them  
7 up for drinks, did they say we're coming up with  
8 money?

9 How did it come about that these people  
10 visited your room?

11 A. How did it come about? I got -- before that from  
12 the basketball games that they were having at the  
13 time beforehand they had already collected the  
14 money, so they brought me the capital to the  
15 room.

16 That's what I mean by the fundraisers.

17 Q. Did they invite you to come to Atlanta to collect  
18 the money?

19 A. I've been in Atlanta before that time period. I  
20 may have been there before then. I don't  
21 remember. The question, the details of that time  
22 period, I could have been in Atlanta two or three  
23 days before then or after that. That part I do  
24 not recall.

25 I just know that I stayed at the Ritz

1 Carlton and I collected the money there and  
 2 picked the money there. He left from there I  
 3 think early in the morning. I could have left  
 4 that night or the next day or before, I don't  
 5 remember.  
 6 Q. What would be some reasons you would be in  
 7 Atlanta around that time period?  
 8 A. Projects I'm working on.  
 9 Q. What kind of projects?  
 10 A. Real estate.  
 11 Q. Was this the cannabis real estate?  
 12 A. No, Georgia wasn't legal, so it would have been  
 13 regular real estate consulting, could have been a  
 14 myriad of things.  
 15 Q. Did you do any projects with Nicole Birch there?  
 16 A. She was my attorney. I didn't know her. I don't  
 17 think I knew her at the time. 2016, no.  
 18 Q. Can you tell us who she is?  
 19 A. She's my lawyer.  
 20 Q. How did you first meet her?  
 21 A. I met her -- he was a securities lawyer. I met  
 22 her through another gentleman, I needed a  
 23 securities lawyer.  
 24 Q. Did she have any role -- just stepping back for a  
 25 second -- did she have any role in Louis

1 Armstrong and Associates?  
 2 A. As my lawyer and helping me -- she represented me  
 3 in going after the guys that had wronged me  
 4 related to the property.  
 5 Q. Did she play any role in setting up -- initially  
 6 setting up Louis Armstrong and Associates?  
 7 A. Not at all, no.  
 8 Q. Is she based in the Atlanta area?  
 9 A. She's in Atlanta.  
 10 Q. Going back to the hotel room -- we're skipping  
 11 around here -- you said two or three people came.  
 12 Was one of them Young Thug?  
 13 A. No.  
 14 Q. Who were the people?  
 15 A. I don't know those people. They're his  
 16 surrogates so to speak. I wouldn't know their  
 17 names or anything along those lines.  
 18 Q. Can you just walk me through to the best to your  
 19 recollection what happened? Are you sitting in  
 20 your hotel room and three guys knock on the door  
 21 and they got a bag of money or what happened?  
 22 A. Essentially I got a call that they were coming to  
 23 drop off the monies that they had raised. I  
 24 believe I talked to Darren around that -- I want  
 25 to say he met them. I don't remember.

1 Q. That's a lot of money, Mr. Shumake. I'm just  
 2 kind of trying to pick your brain here.  
 3 A. Not for real estate.  
 4 Q. Well, that's true?  
 5 A. That's relative.  
 6 Q. So you got a call about Young Thug. Was there  
 7 somebody else that gave money as well? Was there  
 8 any other people who gave money to you at that  
 9 time?  
 10 MR. MICHAEL: Object to the question.  
 11 You're assuming that he testified that Young Thug  
 12 had given him some of that money that's part of  
 13 this case. I don't think that he testified to  
 14 that.  
 15 MR. BAIN-CREED: I'll rephrase the  
 16 question.  
 17 BY MR. BAIN-CREED:  
 18 Q. Mr. Shumake, did you say that Young Thug reached  
 19 out to you about having money that he wanted to  
 20 give you in Atlanta?  
 21 A. No, I think I said I reached out to -- well, I  
 22 got through him to other people. He was doing  
 23 basketball games and that's how they raised the  
 24 capital, the funds raised.  
 25 Q. That was Marie Ali?

1 A. Yes.  
 2 Q. Who works with Young Thug?  
 3 A. Yes.  
 4 Q. You awarded a -- kind of a glass plaque to Young  
 5 Thug for his support, is that correct?  
 6 A. That is correct.  
 7 Q. But you do not remember exactly who showed up at  
 8 the room -- at your room with --  
 9 A. I don't know them. I wouldn't remember if I walk  
 10 past them in the hallway.  
 11 Q. Did you just open the door and they hand you  
 12 \$250,000 or how did this transpire?  
 13 A. More or less.  
 14 Q. Did you ask where is this money from or --  
 15 A. I had already heard it was from games, basketball  
 16 games, but I don't think he have me \$250,000, I  
 17 think it only gave \$100,000; I'm not sure.  
 18 Q. Did you get money from any other people on that  
 19 trip to Atlanta?  
 20 A. I got money from John Goldstein.  
 21 Q. Who is Mr. Goldstein?  
 22 A. Goldstein is actually one of my partners in the  
 23 farm.  
 24 Q. In the Via Real cannabis industry farm?  
 25 A. Yes, uh-huh. I think he spoke to the agent as

1 well that they gave the money, his CPA gave a  
 2 letter related to the capital, so --  
 3 Q. How did Mr. Goldstein tell you that he obtained  
 4 that money?  
 5 A. Casino, he's in the casino business, bingo halls.  
 6 Q. So did he represent to you that this was money  
 7 from bingo halls or from investors or --  
 8 A. Bingo parlors, bingo.  
 9 Q. Is he affiliated with a company called Stax?  
 10 A. Yeah, Stax Entertainment.  
 11 Q. What is Stax?  
 12 A. Bingo.

13 MR. MICHAEL: Gentlemen, I've gone off  
 14 video, but I can hear everything on audio, so I'm  
 15 still participating.

16 MR. BAIN-CREED: Okay, thanks, David.

17 BY MR. BAIN-CREED:

18 Q. Have you ever heard, Mr. Shumake, of Swanky  
 19 Consultants?

20 A. Doesn't ring a bell. I know I heard of Stax.

21 Q. And Stax is the bingo hall company?

22 A. I believe so.

23 Q. Now, when you said some people showed up at your  
 24 hotel room earlier you said you can't remember  
 25 who they are, was Mr. Goldstein one of them that

1 showed up to your hotel room?

2 A. No, not at all.

3 Q. So how did you obtain money from Mr. Goldstein?

4 A. Probably picked up at an earlier time period.

5 Q. Where would you have picked that up?

6 A. Detroit, could have been -- I don't remember. He  
 7 had bingo parlors in Florida, he's got bingo in  
 8 Detroit, many places.

9 Q. How long have you known Mr. Goldstein?

10 A. Fifteen, 20 years, a long period of time.

11 Q. Based on your recollection you believe  
 12 Mr. Goldstein gave his money in Atlanta and that  
 13 was part of the money that was seized?

14 A. No, no, I don't think he gave me money in  
 15 Atlanta. I think I picked it up from somewhere;  
 16 I don't remember.

17 Q. What was the denominations of the money that  
 18 Mr. Goldstein gave you?

19 A. I do not remember if they were \$20s or \$50s, I  
 20 would not remember that.

21 Q. How much do you think you got from Mr. Goldstein?

22 A. About -- over \$100,000.

23 Q. And what did he tell you he wanted you to -- did  
 24 he tell you --

25 A. I believe the same projects. He's got a donation

1 letter as well. I believe your agent spoke to  
 2 him as well.

3 Q. Right, but what did he tell you, Mr. Shumake?  
 4 What do you remember him telling you?

5 A. I don't remember, I can't specifically remember  
 6 what he said. We had a myriad of conversations.  
 7 I'm not going to be able to pull that one thing  
 8 out.

9 Q. What kind of things did you usually discuss with  
 10 Mr. Goldstein?

11 A. All kinds of stuff.

12 Q. Give me some examples if you would in the  
 13 2015/2016 time frame?

14 A. We talked about food, we talked about women, we  
 15 talked about politics, we talked about business,  
 16 we talked about a lot of different things.

17 Q. Would you say he's both a friend and a business  
 18 associate?

19 A. Mostly a business associate. I can't rightfully  
 20 say -- we're in litigation right now for separate  
 21 different projects, so we've kind of -- it's kind  
 22 of going left if you will.

23 Q. Mr. Shumake, jumping back to your hotel room, who  
 24 paid for your hotel room at the Ritz Carlton in  
 25 June, 2016?

1 A. I want to say I did. I don't recall. It was  
 2 either in cash or a credit card or something.

3 Q. Would that have been a business expense for you  
 4 or personal expense?

5 A. It would have been a business expense I would  
 6 think. I don't know specifically, I just know I  
 7 stayed there.

8 Q. Well, did you ever travel for International Human  
 9 Rights Commission?

10 A. All the time. You can't extract personal and  
 11 business. This is what you do all the time. You  
 12 represent the title no matter where you're at.

13 Q. So if you were on a trip and you collected money  
 14 for the International Human Rights Commission  
 15 would they reimburse you for your expenses?

16 A. No one would reimburse me. The International  
 17 Human Rights Commission was an appointment. I  
 18 raised the capital, I did everything, I helped  
 19 build the organization.

20 Q. So there's no reimbursement for really anything  
 21 -- there's no salary and there's no reimbursement  
 22 of travel expenses for your role with  
 23 International Human Rights Commission?

24 A. Although then if I raise the capital I extract it  
 25 out of that, but what I was trying to do is -- I

1 would have never received that refund per se.  
 2 International Human Rights Commission,  
 3 it's an intergovernmental organization so it's a  
 4 little different than your average for profit or  
 5 not for profit.  
 6 It's an IGO just like the United  
 7 Nations, so it's got its own Vienna Convention,  
 8 it's got its own diplomatic resources and powers.  
 9 Q. Mr. Shumake, I can't recall if I asked you this.  
 10 How was the money packaged when it was handed to  
 11 you in the hotel room?  
 12 A. I don't even recall. I never even looked at it.  
 13 I think it went right to Darren, I'm not sure. I  
 14 didn't look at it.  
 15 Q. So as soon as you got the money did you call  
 16 Darren into your room and did you go to his room  
 17 or what happened as soon as you got the money?  
 18 A. I don't remember if he came to my room or I went  
 19 to his room. That I do not know.  
 20 I don't recall, I don't recall, either  
 21 they came to my room or his room, I'm not sure  
 22 whose room it happened in. I just know that  
 23 there was an exchange. I don't remember the  
 24 guys, I don't know who they are.  
 25 Q. So did you thereafter kind of combine the money

1 Q. So tell us about that. You were supposed to go  
 2 to California the same day that Mr. Coleman was  
 3 flying to California?  
 4 A. No, I don't know if it was the same day, I don't  
 5 recall, I don't remember. I don't know if it was  
 6 the same day or if it were the next day or two  
 7 days. That I don't know.  
 8 I just know that I eventually would  
 9 make it over to California.  
 10 Q. So, Mr. Shumake, it sounds like you had already  
 11 been in possession of the money from  
 12 Mr. Goldstein and then you met Mr. Coleman at the  
 13 hotel, you were staying at the same hotel and you  
 14 combined -- you or he combined the money and he  
 15 was going to travel to California with it, is  
 16 that correct?  
 17 A. Correct.  
 18 Q. So if you had already been carrying the money  
 19 from Mr. Goldstein why didn't you just carry it  
 20 to California?  
 21 A. Why didn't I carry it to California? I was going  
 22 to -- I still had some additional work I was  
 23 doing. I read something in your documents or the  
 24 document that I don't want to carry the capital.  
 25 I've traveled around the world with

1 that Mr. Goldstein had given you and the other  
 2 money?  
 3 A. Darren combined them, he may have combined the  
 4 two together.  
 5 Q. Darren combined them?  
 6 A. I think so.  
 7 Q. Mr. Coleman?  
 8 A. Mr. Coleman, excuse me.  
 9 Q. And by the way, why was Mr. Coleman there at the  
 10 Ritz Carlton staying in a room next to you or in  
 11 the same hotel as you?  
 12 Why was he there?  
 13 A. Why was he there?  
 14 Q. At the Ritz Carlton?  
 15 A. We were trying to put all the capital together  
 16 and that's why he was there. We were in the same  
 17 hotel.  
 18 Q. Did he live in the Atlanta area?  
 19 A. He did.  
 20 Q. But he had a hotel room there for purposes of --  
 21 A. He was going to be flying out the next day or  
 22 somewhere in that time period.  
 23 Q. So --  
 24 A. And I was supposed to meet him in California  
 25 after I got finished with my work.

1 money myself, but Darren was traveling within  
 2 that short time window.  
 3 Q. Had Darren carried money for you -- I should say  
 4 Mr. Coleman -- had Mr. Coleman carried money for  
 5 you before?  
 6 A. Yes, he's traveled overseas for me to help  
 7 deliver that money for those projects. I think  
 8 he traveled to Ethiopia and Kenya, I'm not sure,  
 9 but if you've got the travel records you would  
 10 see that.  
 11 Q. Roughly how many times would you say in the past  
 12 10 years, roughly how many times would you say  
 13 Mr. Coleman has carried money for you?  
 14 A. I don't recall.  
 15 Q. Would you say it's at least at few times, at  
 16 least more than three?  
 17 A. Don't recall.  
 18 Q. With this particular trip what did you tell  
 19 Mr. Coleman to do with the money?  
 20 A. He was supposed to meet one of the groups of my  
 21 team. We had an office over in -- an office in  
 22 -- like these small Regis offices in California  
 23 -- I'm sorry, in San Francisco and in LA.  
 24 He was supposed to drop it off there to  
 25 whoever I appointed there and then I would meet

1 up and either send it to Africa or wait until  
 2 I've raised enough money to send it over.  
 3 Q. When you say we had an office, do you mean  
 4 International Human Rights Commission?  
 5 A. International Human Rights Commission.  
 6 Q. So would the office be like a -- like you'd rent  
 7 an office in a building or --  
 8 A. Yeah, office in a building.  
 9 Q. Would there be --  
 10 A. Be what, an office?  
 11 Q. Would there be a person there, like a staff  
 12 member who was paid there all the time?  
 13 A. Not all the time. I was building this whole  
 14 system if you can kind of imagine. I was  
 15 building to have an office with a full-time staff  
 16 member.  
 17 When the funds were seized, of course  
 18 all that kind of just died -- part of it -- a lot  
 19 of it died on the vine there including the  
 20 offices, so I no longer have those offices.  
 21 Q. How did you fund those offices initially?  
 22 A. Initially? Out of my pocket. Then I started  
 23 raising capital to try to keep things going.  
 24 When I got the funds seized I was no longer able  
 25 to do that.

1 with me.  
 2 He's been a part of many of the  
 3 projects, the school in Ethiopia, the water  
 4 projects in Africa, he's done all that. He's  
 5 well aware of the work.  
 6 Q. When you're communicating with Mr. Coleman about  
 7 transporting money for you, for example in this  
 8 case, would you normally talk to him on the phone  
 9 or would you text him or would you e-mail him or  
 10 all of the above?  
 11 A. Probably could be anything, any of the above, all  
 12 of the above, texts, e-mails, calls, who knows, I  
 13 don't --  
 14 Q. Is it pretty normal for you to text him?  
 15 A. We text a lot, yeah.  
 16 Q. Would you have been texting -- would you say  
 17 you've been texting with him for the past five  
 18 years?  
 19 A. Yeah, I would say so.  
 20 Q. Mr. Shumake, if you would look at Exhibit 1.  
 21 MR. BAIN-CREED: And, David, just for  
 22 your purposes since you're on the phone, Exhibit  
 23 1 is the letter.  
 24 MR. MICHAEL: Okay, I've got it.  
 25 DEPOSITION EXHIBIT 1

1 Q. Were you storing any currency at those offices?  
 2 A. I had, yes.  
 3 Q. How did you store it?  
 4 A. In a safe.  
 5 Q. So each office had a safe?  
 6 A. Yes.  
 7 Q. What if Mr. Coleman had stolen the currency, did  
 8 you have any recourse against him?  
 9 A. No, nor did I ever have a belief that he would  
 10 steal the currency. I've been knowing him for 30  
 11 years.  
 12 Q. Where did you first meet Mr. Coleman?  
 13 A. Federal Express, 1990.  
 14 Q. Were you working with him there?  
 15 A. I worked there.  
 16 Q. Did he work there as well?  
 17 A. No, he just dropped off some packages.  
 18 Q. Did you have a social relationship with him or is  
 19 it just all business?  
 20 A. Social primarily. We've done business. We've  
 21 been all over the world together. He served when  
 22 I was the honorary ambassador to Botswana and  
 23 Tanzania he was the executive director over the  
 24 Botswana American Chamber of Commerce, so he's  
 25 traveled the world and has taken money for me,

1 letter 6-24-16  
 2 WAS MARKED FOR IDENTIFICATION.  
 3 Q. Mr. Shumake, can you just tell us about this  
 4 letter? Does this look familiar to you?  
 5 A. It does, yes.  
 6 Q. What is it?  
 7 A. It's a letter for him being a courier, diplomatic  
 8 courier, of the work that we were doing and the  
 9 cash that we were collecting.  
 10 Q. And you signed this letter?  
 11 A. I did.  
 12 Q. Did you provide it to Mr. Coleman?  
 13 A. I did.  
 14 Q. And is this your letterhead that you were using  
 15 at the time?  
 16 A. Yes, uh-huh.  
 17 Q. And I think, Mr. Shumake, you said you might have  
 18 had some other business at the time. What was  
 19 the -- if you recall, what was the direction to  
 20 Mr. Coleman as far as what he was going to do  
 21 with the money when he arrived in San Francisco?  
 22 A. I'm not particularly sure on that trip. He could  
 23 have taken it and given it to -- he could have  
 24 taken it and dropped it off at the office or  
 25 could have given it to someone, I'm not sure, or

1 he could have been going overseas.

2 I can't remember that specifically. I  
3 just know what he's done in the past. He'd done  
4 a whole myriad of things for me.

5 Q. If he had made it to San Francisco with this  
6 money and put it in a safe, would it have been  
7 insured against loss?

8 Did you have any kind of insurance or  
9 anything?

10 A. No, nothing like that.

11 Q. Have you told YSL, Young Thug or Mr. Goldstein  
12 that the money was seized?

13 A. Yes.

14 Q. What was their reaction?

15 A. It's terrible, saddened.

16 Q. Have you told them about your plans for the  
17 currency if you get it back?

18 A. Plans for the currency if I got it back, what do  
19 you mean?

20 Q. If you get it back in this case --

21 A. Yeah, I'm going to go there and do the work. I'm  
22 funding the work right now out of my pocket  
23 presently right now.

24 I've built the water parks, I have  
25 expanded the International Human Rights

1 Commission. It's now part of the United Nations  
2 environmental program. I was able to capitalize  
3 and do that.

4 I'm in the process of getting all of  
5 this -- the housing equipment out of the port so  
6 that I can do the work.

7 Q. Have you discussed with them whether you could  
8 use the money to pay taxes?

9 A. Have I discussed with them that?

10 Q. Yes.

11 A. No, I wouldn't ever need to discuss with them  
12 that area.

13 Q. Would you use the money to pay taxes if you  
14 could?

15 A. Would I use it? Yeah, what they've donated to me  
16 I've spent additional funds to do the work. I've  
17 raised additional funds, so it's a loss so I will  
18 be recouping back what I've already invested to  
19 do the work.

20 Q. So you would be recouping and using it to pay  
21 your personal taxes, is that --

22 A. What I personally paid to do the work I just  
23 shared with you.

24 Q. How did you obtain the money to personally pay to  
25 do the work?

1 A. It could have been through other donations, it  
2 could have been through consulting fees. I do  
3 the consulting work domestically and  
4 international.

5 Q. All right, Mr. Shumake, have you ever used anyone  
6 other than -- or asked anyone I should say other  
7 than Mr. Coleman to transport money at your  
8 direction?

9 A. Yes.

10 Q. Who else have you asked?

11 A. Have I asked or have worked with? Maybe I'm not  
12 understanding.

13 Q. Who else have you worked with to transport money?

14 A. Attorney Douglas Hampton and attorney Daniel  
15 Flint.

16 Q. Tell us how many times Mr. Hampton has moved  
17 currency for you?

18 A. I don't recall.

19 Q. How much money would you say that he's moved for  
20 you?

21 A. I don't recall.

22 Q. What have you asked him to do with currency?

23 A. Same thing, take it to the office, put it in the  
24 safe, pick up the money, those types of things.

25 Q. How have you paid him?

1 A. I pay him a flat fee.

2 Q. Who sets the fee?

3 A. I have.

4 Q. How much would you usually pay him?

5 A. A few percentage points, a few thousand dollars.

6 Q. Is that the same way that you pay Mr. Coleman,  
7 just a flat fee?

8 A. Correct.

9 Q. What about Mr. Flint, how many times has he moved  
10 currency for you?

11 A. I don't recall.

12 Q. How much has he moved?

13 A. I have no idea.

14 Q. You pay him a flat fee too?

15 A. Yes.

16 Q. Does Mr. Hampton also -- did he represent you in  
17 a case?

18 A. He did.

19 Q. What case was that?

20 A. A case in Michigan.

21 Q. What's the nature of that case?

22 A. I got a misdemeanor for violating the Consumer's  
23 Services Act -- I think that's what it's called.

24 Q. What was the nature of the charges there? Like  
25 what were you accused of?

1 A. Accepting the funds before providing the service.  
 2 Q. Can you give us some background what led to that  
 3 case, what facts?  
 4 A. I was an investor in a company. I was not  
 5 handling the company. In a time period where the  
 6 real estate market crashed people were -- a lot  
 7 of the mortgage companies overcharged people, so  
 8 we did forensic audits, you go in and audit a  
 9 mortgage file and find out discrepancies in the  
 10 RESPA laws and TILA laws, these mortgage laws and  
 11 then you would notify and/or sue the bank in  
 12 order to save your property.

13 And so not knowing that particular law  
 14 and I had lawyers that worked for me and they ran  
 15 the business. My role was mostly as an investor.  
 16 And so being high profile entity in Michigan they  
 17 came at me hard for that and -- but that's what  
 18 it was, it was a 90-day misdemeanor, accepting  
 19 monies prior to providing the services.

20 Did not say the services were not  
 21 provided and they were provided. I shut the  
 22 company down, I continued to provide the  
 23 services. When I realized that this business  
 24 model, the goal posts kept moving based upon  
 25 where we were at in the country that was -- the

1 A. It is, yes.  
 2 Q. Is it called Ebony Foundation?  
 3 A. No, those are two different things. The  
 4 International Human Rights Commission is  
 5 registered and trademark in Islamabad, Pakistan.  
 6 Q. Why Pakistan?  
 7 A. That's where it was chartered. I have no idea.  
 8 That's where it was chartered well before I  
 9 became a member.  
 10 Q. When did you first find out about this entity  
 11 chartered in Pakistan?  
 12 A. 2012, I'm not sure.  
 13 Q. When did you start being involved with the entity  
 14 doing fundraising?  
 15 A. 2015 -- I'm not sure, I don't recall.  
 16 Q. How many folks would you say are involved in this  
 17 organization?  
 18 A. Hundreds.  
 19 Q. Where are they based?  
 20 A. All over the world.  
 21 Q. What's your role in the organization?  
 22 A. Right now I'm the acting chairman, world chairman  
 23 of the organization presently.  
 24 Q. So how many people would you say kind of work  
 25 under you in this organization?

1 markets were crashing all around us.

2 And Douglas Hampton was my lawyer.

3 Q. Mr. Shumake, the other IHRP, the other  
 4 International Human Rights Commission -- are  
 5 there other ambassadors?

6 A. Are there other International Human Rights  
 7 Commission ambassadors?

8 Q. Right.

9 A. There's many.

10 Q. Do they use couriers?

11 A. I don't know. Some of them have. It's based  
 12 upon Vienna Convention laws. It's pretty direct  
 13 cut and dry. You're able to use couriers.

14 The IHRC other office I think I saw it  
 15 in some exhibit, that was a clandestine  
 16 organization. I sued them and won. I got their  
 17 sites taken down, so they were -- what you're  
 18 reviewing is not accurate. They could not have  
 19 had any deference or any explanation of my role  
 20 or anything because they were a fraudulent  
 21 organization.

22 Q. Mr. Shumake, is the International Human Rights  
 23 Commission, the one that you're affiliated with,  
 24 is it still called International Human Rights  
 25 Commission?

1 A. Hundreds. It's kind of -- it's on -- I'm trying  
 2 to use the right word -- it's not being operated  
 3 presently right now.

4 I took the organization over a year and  
 5 a half ago as the world chairman. I'm trying to  
 6 rebuild it. I'm going to raise capital and  
 7 rebuild the organization and do work around the  
 8 world.

9 The first thing is to getting this  
 10 housing part established. We got offices in  
 11 Pakistan, offices in South Africa, in Kenya.  
 12 There's people all over the world.

13 Q. How did you come to be the world chairman, how  
 14 did that come about?

15 A. The past world chairman, his time expired and he  
 16 transferred the organization over to me.

17 Q. Has the organization, International Human Rights  
 18 Commission, ever disclaimed affiliation with you?

19 A. The clandestine organization, yes, they have.

20 Q. So what is your understanding as to why there was  
 21 a clandestine organization? Why would someone  
 22 set up a clandestine organization for one that  
 23 you're involved in?

24 A. When the acting world chairman or the past world  
 25 chairman, he had organized a national conference

1 and to bring other presidents and dignitaries to  
2 that conference he wrote some checks based on  
3 monies that he was supposed to raise and those  
4 checks bounced.

5 In Pakistan, other parts of the  
6 country, it's -- you have Debtor's Prison, so if  
7 you owe money they put you in jail. And so he  
8 owed money based upon checks that were written on  
9 those organizations and he was put in jail for a  
10 couple of years.

11 After he was put in jail the No. 2 guy  
12 at the time just took over, and there was no  
13 appointment, he just took over the organization.  
14 I was able to help to get the acting -- the world  
15 chairman out of prison by helping to pay some of  
16 those debts.

17 And then I became the world chairman  
18 and that's where I sit right now. I hired a  
19 lawyer in Pakistan to go after the clandestine  
20 organization. After hiring that lawyer he sued  
21 the members of the clandestine organization and I  
22 got an injunction against them in the Court.

23 Q. How does the entity -- how do the other  
24 ambassadors or other people involved in this  
25 entity throughout the world, how do they collect

1 money and how do they store money?

2 Do they only deal in cash like you or

3 --

4 A. It's across the board, checks, cash, but in the  
5 United States we're so used to wires and checks  
6 on a world perspective, you know, people aren't  
7 going to take wires from you, they're not taking  
8 checks from you from a U.S. entity.

9 So cash is the way that people interact  
10 and operate on a global basis, which is quite  
11 foreign to how we operate in the United States.

12 But in other parts of the world if I  
13 want to do a water well, I'm not going to be able  
14 to do that through a wire. The guy that is doing  
15 the well doesn't even have a bank account. He  
16 gets paid in cash to go and drill that well.

17 The same thing on the housing side.  
18 It's a total foreign psychology as to how people  
19 operate over there. So the other ambassadors on  
20 a worldwide perspective usually operate in cash,  
21 especially in some of the third world countries.

22 It may be different in Europe in some  
23 of those areas where they operate differently,  
24 but if you're talking about the continent of  
25 Africa, cash is it.

1 Q. Mr. Shumake, why would you move a bunch of cash  
2 from Atlanta to San Francisco and then back over  
3 to Africa?

4 Were you planning to immediately take  
5 it over to Africa?

6 A. Some days it was immediate, sometimes I wanted to  
7 raise so much money and I would take it over. I  
8 usually flew on Ethiopian Airlines.

9 Ethiopian Airlines had a -- they got a  
10 faster flight -- well, they have two flights.  
11 They've got one that comes out of California and  
12 one that comes out of DC. I've been to DC as  
13 well to do the same thing.

14 Q. Let's talk a little bit about just a few other  
15 topics, Mr. Shumake. Have you ever heard of  
16 Inheritance Investments?

17 A. Inheritance Investments, yes.

18 Q. Is that an entity that you're familiar with?

19 A. Yes, I am.

20 Q. What is that?

21 A. Inheritance Investments was a company I owned  
22 many years ago.

23 Q. What did that company do?

24 A. Buy real estate.

25 Q. Is it still in existence or --

1 A. No.

2 Q. Some other topics here, Mr. Shumake. How about  
3 Fifth Third Bank, ever do business with Fifth  
4 Third Bank?

5 A. I did.

6 Q. What kind of business did you do with them?

7 A. They were a lender.

8 Q. Do you know someone named Robert Hantz (sp)?

9 A. Vaguely, that name rings a bell.

10 Q. How did you know Mr. Hantz?

11 A. He was a broker at Fifth Third Bank.

12 Q. Were you ever sued by Fifth Third Bank?

13 A. Of course, yes, I was. You have that  
14 information.

15 Q. What were you sued for?

16 A. They sued me for -- I don't remember what they  
17 sued me for. I just know we settled. I don't  
18 know what the lawsuit specifically entailed.

19 Mr. Hantz was a broker there and he did  
20 some unsavory deals with the bank and he got  
21 deals financed. Some of the properties that I  
22 had financed he financed them for me and he went  
23 to prison for it and Fifth Third sued many people  
24 that had borrowed money from their banks.

25 Q. And you settled that one?

1 A. I did and then of course when the real estate  
2 markets crashed I wasn't able to pay that  
3 settlement, but yes, that's what that is about.  
4 Q. Is that one of the cases that led to you -- I  
5 think you mentioned you had filed bankruptcy at  
6 some point?  
7 A. I did. I didn't mention that, but I did. That  
8 led me to file bankruptcy.  
9 Q. Yeah, is this one of the cases that led you into  
10 bankruptcy?  
11 A. No, not at all.  
12 Q. What was the nature of that bankruptcy by the  
13 way, was it to get some debts erased or what led  
14 you to file bankruptcy?  
15 A. Had \$100 million worth of debt. I had a lot  
16 going on at the time. The markets had crashed, I  
17 lost millions of dollars and I was heavily  
18 involved in real estate.  
19 Q. Roughly when did you file bankruptcy, do you  
20 remember?  
21 A. Either 2012, '13 or '14, I don't remember.  
22 Q. Mr. Shumake, let me ask you a few more questions  
23 here. Skipping around a bit, in the State of  
24 Michigan v Shumake case, the one that Mr. Hampton  
25 represented you in, you said that there was some

1 a week. It was foolishness.  
2 Q. And going back to the basis for that prosecution,  
3 was Mr. Coleman involved, Mr. Darren Coleman,  
4 involved in any of the activity that led to that  
5 prosecution of you and the police for that  
6 misdemeanor --  
7 A. Nothing at all.  
8 Q. He wasn't involved in that at all?  
9 A. At all.  
10 Q. I'd like to talk to you a little bit about your  
11 involvement in cases, U.S. v Jeffrey Beasley. Can  
12 you tell us what this case was about?  
13 This is a Michigan federal criminal  
14 case.  
15 A. Yeah, it was under the Kwame Kilpatrick -- I  
16 don't know if you know anything about that, the  
17 mayor of Detroit. That was the largest criminal  
18 investigation in Michigan where they interviewed  
19 over 400 people and it just built from his  
20 involvement with pension funds and just all kinds  
21 of activities.  
22 Q. So what role did you play in that prosecution,  
23 Mr. Shumake? In other words, how were you  
24 involved in that case?  
25 A. I was a witness.

1 credit service violations and you pled guilty?  
2 A. I did.  
3 Q. Were you placed on probation or supervised  
4 release in that case?  
5 A. Yes.  
6 Q. What were the -- did you ever violate probation  
7 or supervised release, the terms?  
8 A. What do you mean?  
9 Q. Well, usually when you're on probation or  
10 supervised release you have some kind of terms  
11 like you can't handle people's money or you can't  
12 travel.  
13 A. I did all that. Yeah, I traveled while I on  
14 probation, I did do that.  
15 Q. Did anyone ever accuse you of violating probation  
16 I think is what I'm getting at?  
17 A. No. I think what you're talking about, I think  
18 it was on bond and I -- it was political. I went  
19 to jail for a week for bond violation.  
20 Q. I do think you're correct and thanks for  
21 reminding me. What was the bond violation?  
22 A. I didn't test -- I had a machine that I was  
23 supposed to blow in twice a week or twice or day  
24 and the machine was faulty and I blew in it late  
25 and broke -- and that judge threw me in jail for

1 Q. Did you testify?  
2 A. I did.  
3 Q. What did you testify about?  
4 A. I don't recall specifically.  
5 Q. Was it having to do with the ICG lease-back deal?  
6 A. Correct.  
7 Q. Was it your testimony --  
8 A. That was my -- as I said, I own GM real estate.  
9 We're in General Motors World Headquarters right  
10 now and I own 2 million square feet of General  
11 Motors real estate across the country.  
12 Actually property there in North  
13 Carolina is one of them.  
14 Q. And were you involved in deals with the Firemen  
15 and Employees Pension Fund and the general  
16 pension fund --  
17 A. Yes.  
18 Q. -- people trying to make investments with you?  
19 A. Correct.  
20 Q. And you testified about essentially paying  
21 kickbacks or paying for entertainment for some of  
22 the pension board trustees?  
23 A. I testified that I wined and dined trustees. I  
24 testified that I had been extorted to pay so much  
25 money. There was no kickbacks.

1 Q. Do you know why you were offered an immunity  
2 agreement for that testimony?  
3 A. They offered everybody immunity agreements to  
4 tell the truth. It was a far-reaching case  
5 against the pension funds, and trustees and the  
6 mayor as to what took place.  
7 You couldn't get a deal unless you were  
8 extorted or you would lose your business.  
9 Q. So were the terms of that agreement essentially  
10 that if you testified truthfully you would not be  
11 prosecuted?  
12 A. Correct.  
13 Q. What about Detroit police and fire retirement  
14 versus ICG, that's a Michigan state civil case?  
15 A. Yes.  
16 Q. Is that on the same subject matter?  
17 A. Same subject matter, yes, correct.  
18 Q. In that case you were involved in a company and  
19 you were at some point removed from your role, is  
20 that correct?  
21 A. Yeah, I wouldn't pay bribes and the general  
22 counsel for that company -- or for the pension  
23 board wound up getting indicted and charged and  
24 committed suicide, Ronald Zajac. And so when I  
25 stopped doing -- being in the payola they sued me

1 that case?  
2 A. I did.  
3 Q. And the temporary restraining order case that you  
4 mentioned in regard to International Human Rights  
5 Commission, is that in a Pakistan court?  
6 A. Yes, Pakistan.  
7 Q. Do you recall a roadside stop, being pulled over  
8 in Michigan in November, 2016?  
9 A. Do I recall a roadside stop?  
10 Q. Yeah, do you recall that?  
11 A. For me or somebody else?  
12 MR. MICHAEL: I'm sorry, who was pulled  
13 over?  
14 MR. BAIN-CREED: Mr. Shumake and some  
15 other folks.  
16 MR. MICHAEL: Okay.  
17 BY MR. BAIN-CREED:  
18 Q. Do you recall that? It would have been --  
19 Mr. Shumake, it would have been in the Portage,  
20 Michigan area?  
21 A. Oh, yeah, yeah, that led to me finding out about  
22 the whole Michigan case, yes. I had a warrant  
23 out for my --  
24 Q. You found out about what?  
25 A. The Michigan case you just talked about.

1 and manipulated the actions.  
2 The general counsel, the of counsel,  
3 was disbarred -- I forget the guy's name. It was  
4 a big fiasco and the guy got indicted and charged  
5 and committed suicide.  
6 Q. Were you accused of somehow mishandling money \$29  
7 million of the police and fire retirement fund?  
8 A. I don't recall. They probably made up a whole  
9 bunch of stuff but I never got charged with  
10 anything. I never got -- nothing happened.  
11 I didn't get sued for it, there was no  
12 repayment, it was all made up, it was a farce.  
13 That still generates money to this day with those  
14 properties, they never lost a dime.  
15 Q. ICG does, is that what you're saying?  
16 A. It does.  
17 Q. Tell me about what you know about United States  
18 versus \$148,145, that's a California federal  
19 forfeiture case. Tell me about the facts that  
20 led to -- are you familiar with that case first  
21 of all?  
22 A. I believe that's Dan Flint, that forfeiture case,  
23 same thing, similar to this one. I don't know  
24 all the details on it though.  
25 Q. But you had directed Mr. Flint to carry money in

1 Q. Oh, the State of Michigan v Shumake?  
2 A. Yes.  
3 Q. Tell us about the circumstances of that roadside  
4 stop, what happened?  
5 A. I pulled over to go use the restroom. I got -- a  
6 cop asked for my driver's license. I give him my  
7 driver's license and I had a warrant for my  
8 arrest that I was unaware of.  
9 Q. Who were you with during the time of that stop?  
10 A. Oh, I don't remember.  
11 Q. The name Blevins (sp) ring a bell?  
12 A. Yeah, it does ring a bell.  
13 Q. Who is Mr. Blevins?  
14 A. He was -- project -- we done projects before  
15 together, deals.  
16 Q. Real estate deals?  
17 A. Real estate deals.  
18 Q. The name Scif ring a bell?  
19 A. No, what is that?  
20 Q. Does the name Sutter ring a bell?  
21 A. Sutter, no.  
22 Q. So Mr. Blevins was with you during this stop?  
23 A. Yes.  
24 Q. Was there any currency or anything seized by the  
25 police during this stop?

1 A. I don't recall. Whatever it was, it was  
 2 something insignif -- I would remember. I don't  
 3 remember.  
 4 Q. Were there any drugs in the car when you were  
 5 stopped?  
 6 A. Drugs?  
 7 Q. Yeah, narcotics?  
 8 A. I don't deal in drugs, I've never seen a drug in  
 9 my life.  
 10 Q. You were with Mr. Blevins, so --  
 11 A. Okay, I got it and that means what?  
 12 Q. Well, I'm just wondering if he had any drugs?  
 13 A. Not that I'm aware of. I've never seen a drug.  
 14 Q. Well, you've seen cannabis presumably?  
 15 A. That's not a drug.  
 16 Q. Mr. Shumake, do you use a bank account?  
 17 A. Do I use a bank account?  
 18 Q. Yeah.  
 19 A. I do.  
 20 Q. Do you have a bank account at Community Choice  
 21 Credit Union?  
 22 A. I do not.  
 23 Q. Let me ask you a question, let me show you  
 24 something.  
 25 Can you look at Exhibit 30.

1 MR. MICHAEL: H as in --  
 2 MR. BAIN-CREED: H as in hamburger.  
 3 MR. MICHAEL: Okay, I found it.  
 4 BY MR. BAIN-CREED:  
 5 Q. So you no longer have an account there,  
 6 Mr. Shumake?  
 7 A. No.  
 8 Q. I'm just wondering how did this Community Choice  
 9 bank account statement come to be attached to  
 10 this petition? What does this bank account have  
 11 to do with that seizure in Atlanta?  
 12 A. Oh, I took out some of the money. Some of it was  
 13 my capital.  
 14 Q. So some of the money that was seized came out of  
 15 this bank account?  
 16 A. Yes.  
 17 Q. Was that related to the International Human  
 18 Rights Commission?  
 19 A. My money to do the projects I was working on.  
 20 Q. So you were going to send your money from this  
 21 bank account from Atlanta to San Francisco and  
 22 then to projects?  
 23 A. Correct.  
 24 Q. Did you consider just putting the money in  
 25 Atlanta that was seized in this case into your

1 DEPOSITION EXHIBIT 30  
 2 petition dated 7-7-17  
 3 WAS MARKED FOR IDENTIFICATION.  
 4 Q. Mr. Shumake, if you go towards the end of this  
 5 Exhibit 30 there's something -- and Exhibit 30  
 6 is, just for the record, that is a petition for  
 7 remission or mitigation of forfeiture that was  
 8 filed by the Abady Law Firm by Robert Shumake on  
 9 behalf of the International Human Rights  
 10 Commission.  
 11 It was filed on July 7, 2017 and it  
 12 references \$170,130 seized in Atlanta. This is  
 13 basically a petition in regard to some money that  
 14 was seized in Atlanta in another case that I know  
 15 Mr. Michael is familiar with.  
 16 Mr. Shumake, are you familiar with the  
 17 seizure in that case?  
 18 A. Yes, vaguely.  
 19 Q. So do you see there is a Community Choice bank  
 20 account statement attached to that petition?  
 21 A. Yes, I do.  
 22 MR. MICHAEL: Is that an exhibit?  
 23 MR. BAIN-CREED: Yeah, it's Exhibit H,  
 24 David.  
 25 A. So I no longer have an account there.

1 bank account and then taking it out when you  
 2 needed it for the project?  
 3 A. I was sending money over to Africa and that was  
 4 the objective. I did take it out in cash and the  
 5 Community Choice Credit Union is a Michigan  
 6 credit union, it doesn't apply to California.  
 7 Q. So you didn't think you could take it out in  
 8 California or take it out at a big bank in Africa  
 9 somehow or anything like that?  
 10 A. Have you ever been to Africa?  
 11 Q. Well, I've also never carried \$250,000 in an  
 12 airport?  
 13 A. I got it, I'm just sharing with you that it  
 14 doesn't work that way. And I understand where  
 15 you're going and I appreciate you guys doing your  
 16 due diligence, but cash is king over there.  
 17 That's how the process -- they're now  
 18 getting more comfortable with bank wires today,  
 19 but four years ago they weren't.  
 20 Ten years ago your money would get lost  
 21 in the abyss. Twenty years ago you couldn't even  
 22 wire it.  
 23 Q. Have you ever sent money by MoneyGram to Africa,  
 24 Mr. Shumake?  
 25 A. I have.

1 Q. How much would you say you sent by MoneyGram?  
 2 A. I have no idea, a lot of money, but I can't send  
 3 money to MoneyGram any longer for that same  
 4 reason.  
 5 Q. As a suspicious transaction or what do you mean?  
 6 A. It's a suspicious transaction. If I go to send  
 7 money to employees or consultants there I no  
 8 longer can send money via MoneyGram.  
 9 MoneyGram automatically sees the  
 10 continent of Africa as suspicious dark people and  
 11 you can't send money there.  
 12 Q. How about Western Union?  
 13 A. All of the above, Western Union, MoneyGram, I  
 14 can't send any money anywhere in the continent.  
 15 Q. Are there any banks in the larger cities in  
 16 Africa in the countries where you visit?  
 17 A. Yeah, banks are there, absolutely.  
 18 Q. Is there a means to transport money via one bank  
 19 in the U.S. to a bank over in Africa?  
 20 A. What do you mean by that?  
 21 Q. Can you wire money to a bank account in Africa  
 22 and then take it out when you get there?  
 23 A. That's starting now to become more of a -- it's  
 24 happening now, but back then it was very frowned  
 25 upon because your money can get stuck. I've

1 case?  
 2 A. Yes.  
 3 Q. When were those and with whom?  
 4 A. I want to say when I was in trial in Shasta  
 5 County I was asked about it.  
 6 Q. You were asked about it while you were  
 7 testifying?  
 8 A. Yes. Hold on -- I think -- no, it wasn't. I'm  
 9 fuzzy. I don't remember, I don't remember.  
 10 Q. Okay, just a wrap-up question, Mr. Shumake and  
 11 just for the record we've discussed we're going  
 12 to do our IHRC deposition next and maybe just  
 13 have a brief break between this deposition and  
 14 the next one and if the witness needs a break  
 15 he's going to let us know.  
 16 Mr. Shumake, just final question. Has  
 17 any money that purportedly belongs to IHRC that  
 18 you raised, has it ever been seized before other  
 19 than in this Western District of North Carolina  
 20 case, the Central District of California case  
 21 with Mr. Flint or the Atlanta seizure case that  
 22 we discussed a while back?  
 23 Other than those three seizures, the  
 24 other Atlanta seizure that we already discussed,  
 25 the seizure in this case and the California

1 experienced that before.  
 2 Q. What do you mean "stuck"?  
 3 A. It will take you a month to get it out of the  
 4 bank.  
 5 Q. And jumping around a little bit, Mr. Shumake, we  
 6 discussed earlier a conversation with law  
 7 enforcement at the Charlotte Airport when the  
 8 money in this case was seized, the \$252,000 and  
 9 it sounded like you could not really recall the  
 10 nature of those conversations or the details of  
 11 them, is that correct?  
 12 A. Correct, but if you show me the document I could  
 13 review it.  
 14 Q. I don't have like, for example, a transcript of  
 15 the call or anything like that, but you're saying  
 16 it's been long enough that you have trouble  
 17 recalling what you discussed?  
 18 A. Correct or what actually took place.  
 19 Q. You did speak with Mr. Coleman on the phone  
 20 during the seizure, correct?  
 21 A. I did.  
 22 Q. Have you had -- other than the conversations at  
 23 the airport have you had any other conversations  
 24 with law enforcement about the seizure in this  
 25 case in the Western District of North Carolina

1 seizure, has there been any other circumstances  
 2 where money that you raised for IHRC has been  
 3 seized?  
 4 A. No.  
 5 Q. Any other circumstances where your money has been  
 6 seized or some money that you were in some way  
 7 involved with has been seized?  
 8 A. Shasta County when the cops stole my money.  
 9 Q. I'm sorry?  
 10 A. When the police officers stole my money in Shasta  
 11 County, California.  
 12 Q. How much money was that?  
 13 A. \$200,000.  
 14 Q. And what was the circumstances of that seizure?  
 15 A. They pulled me over for a routine -- I don't  
 16 know, some stop, and gave me a receipt for  
 17 \$120,000 and then I sued to get my money back and  
 18 they indicted me, so I went to trial and won and  
 19 got those doctors back.  
 20 MR. MICHAEL: And just to make the  
 21 record clear, it probably wasn't an indictment, I  
 22 think it was probably just a criminal complaint.  
 23 THE WITNESS: I was acquitted.  
 24 MR. MICHAEL: Were you charged by  
 25 criminal complaint or were you charged by

1 indictment?

2 THE WITNESS: I don't know the answer  
3 to that question.

4 MR. BAIN-CREED: I have the records  
5 somewhere and I don't know that -- yeah, I have  
6 the records somewhere. So I'm happy to just  
7 stipulate that the records will speak for  
8 themselves.

9 MR. MICHAEL: Okay, let's just  
10 stipulate that he was charged, whether by  
11 indictment or criminal complaint, the record will  
12 show that.

13 BY MR. BAIN-CREED:

14 Q. Any other seizures, Mr. Shumake?

15 A. No.

16 MR. BAIN-CREED: I think that's all I  
17 have for you as far as the personal deposition.  
18 David, anything you wanted to add by the way?

19 MR. MICHAEL: No, I'm fine.

20 (The deposition was concluded at 1:51 p.m.,  
21 signature of the witness was not requested by  
22 counsel for the respective parties hereto)  
23  
24  
25

1 CERTIFICATE OF NOTARY

2  
3 STATE OF MICHIGAN )

4 ) SS

5 COUNTY OF WAYNE )

6 I, DALE E. ROSE, Certified Shorthand  
7 Reporter, a Notary Public in and for the above  
8 county and state, do hereby certify that the  
9 above deposition was taken before me at the time  
10 and place hereinbefore set forth; that the  
11 witness was by me first duly sworn to testify to  
12 the truth, and nothing but the truth, that the  
13 foregoing questions asked and answers made by the  
14 witness were duly recorded by me stenographically  
15 and reduced to computer transcription; that this  
16 is a true, full and correct transcript of my  
17 stenographic notes so taken; and that I am not  
18 related to, nor of counsel to either party nor  
19 interested in the event of this cause.  
20

21 \_\_\_\_\_  
22 DALE E. ROSE CSR-0087

23 Notary Public,

24 Wayne County, Michigan

25 My Commission expires: 7-15-24

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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION

UNITED STATES OF AMERICA,

vs.

Civil Action

No. 3:18-CV-646

APPROXIMATELY \$252,140.00 IN  
US CURRENCY SEIZED FROM DARREN  
LENNARD COLEMAN ON JUNE 27, 2016  
AT CHARLOTTE-DOUGLAS INTERNATIONAL  
AIRPORT,

\_\_\_\_\_/

The Deposition of ROBERT S. SHUMAKE [30(b)(6)],  
Taken via Zoom  
Commencing at 2:23 p.m.,  
Tuesday, November 17, 2020,  
Before Dale E. Rose, CSR-0087.



<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2</p> <p>3 MR. BENJAMIN BAIN-CREED</p> <p>4 MR. J. SETH JOHNSON</p> <p>5 UNITED STATES DEPARTMENT OF JUSTICE</p> <p>6 U.S. ATTORNEYS OFFICE</p> <p>7 Assistant United States Attorneys</p> <p>8 227 West Trade Street, Suite 1650</p> <p>9 Charlotte, North Carolina 28202</p> <p>10 (704) 344-6222</p> <p>11 benjamin.bain-creed@usdoj.gov</p> <p>12 Appearing on behalf of the</p> <p>13 United States of America</p> <p>14</p> <p>15 MR. DAVID M. MICHAEL</p> <p>16 Law Offices of Michael &amp; Burch, LLP</p> <p>17 One Sansome Street, Suite 3500</p> <p>18 San Francisco, California 94104</p> <p>19 (415) 946-8996</p> <p>20 david@michaelburchlaw.com</p> <p>21 Appearing on behalf of the Deponent</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1 INDEX TO EXAMINATIONS</p> <p>2 Witness Page</p> <p>3</p> <p>4 ROBERT S. SHUMAKE</p> <p>5</p> <p>6 EXAMINATION BY MR. JOHNSON:..... 4</p> <p>7</p> <p>8 INDEX TO EXHIBITS</p> <p>9</p> <p>10 Exhibit Page</p> <p>11 (Exhibits attached to transcript)</p> <p>12 NOTE: Exhibits listed in order presented.</p> <p>13</p> <p>14 DEPOSITION EXHIBIT 37</p> <p>15 Third Amended Notice of Deposition ..... 6</p> <p>16 DEPOSITION EXHIBIT 22</p> <p>17 IHRC agreement, etc..... 33</p> <p>18 DEPOSITION EXHIBIT 10</p> <p>19 answer of IHRC ..... 83</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 4</p> <p>1 Tuesday, November 17, 2020</p> <p>2 About 2:23 p.m.</p> <p>3 (NOTE: The deponent and reporter</p> <p>4 appeared in Detroit, all counsel</p> <p>5 appeared via Zoom.)</p> <p>6 ROBERT S. SHUMAKE,</p> <p>7 having first been duly sworn, was examined and</p> <p>8 testified on his oath as follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. JOHNSON:</p> <p>11 Q. Could you please state your name?</p> <p>12 A. Robert Shumake.</p> <p>13 Q. My name is Seth Johnson and I'm an Assistant</p> <p>14 United States Attorney. I represent the United</p> <p>15 States in this case, do you understand that?</p> <p>16 A. I do now.</p> <p>17 Q. And you've just been deposed in your personal</p> <p>18 capacity, correct?</p> <p>19 A. Correct.</p> <p>20 MR. MICHAEL: Mr. Johnson, just to set</p> <p>21 the record straight, this is David Michael. I'm</p> <p>22 also appearing via Zoom audio, although I can see</p> <p>23 everybody on video, so I'm appearing on behalf of</p> <p>24 Mr. Shumake at this deposition.</p> <p>25 MR. JOHNSON: Thanks, David.</p>	<p style="text-align: right;">Page 5</p> <p>1 BY MR. JOHNSON:</p> <p>2 Q. Mr. Shumake, you were just deposed by AUSA</p> <p>3 Bain-Creed in your personal capacity, correct?</p> <p>4 A. Yes, I believe so.</p> <p>5 Q. And you understand that in this deposition you're</p> <p>6 testifying as the corporate representative of</p> <p>7 Claimant International Human Rights Commission,</p> <p>8 right?</p> <p>9 A. When you say "corporate", it's not a corporation.</p> <p>10 Q. Your counsel, I'm sure, has talked to you about</p> <p>11 what a 30(b)(6) depo is, right?</p> <p>12 A. No, I don't know what a 30(b)(6) deposition is.</p> <p>13 I've never heard of that term before.</p> <p>14 Q. I will explain it to you. So Federal Rules of</p> <p>15 Civil Procedure 30(b)(6) allows a party to depose</p> <p>16 a corporation or other organization including</p> <p>17 governmental entity.</p> <p>18 The rule requires that an entity</p> <p>19 designate one or more individuals to testify on</p> <p>20 its behalf and it places the burden on the</p> <p>21 organization to designate the individuals that</p> <p>22 are reasonably educated to testify on those</p> <p>23 matters that are listed in the Notice.</p> <p>24 Have you seen the government 30(b)(6)</p> <p>25 notice for IHRC in this case?</p>

2 (Pages 2 to 5)

1 A. I don't know, I'm not sure.  
 2 Q. Let's turn to Exhibit 37.  
 3 DEPOSITION EXHIBIT 37  
 4 Third Amended Notice of Deposition  
 5 WAS MARKED FOR IDENTIFICATION.  
 6 Q. So Mr. Shumake, you're looking at Exhibit 37  
 7 which is a document entitled Third Amended Notice  
 8 of Deposition, it's directed to Claimant IHRC and  
 9 it's a deposition notice that lists 22 specific  
 10 topics, do you see that?  
 11 A. Yes.  
 12 Q. Have you ever seen this document before?  
 13 A. I don't recall.  
 14 Q. You don't remember?  
 15 A. I don't remember.  
 16 Q. Have you ever seen any document like this before?  
 17 A. I don't recall.  
 18 Q. Did you review this document in preparation for  
 19 your testimony here today?  
 20 A. I don't recall. I got some e-mails this morning  
 21 about an hour before the deposition, so I would  
 22 not have seen all the documents.  
 23 There's no way I would have been able  
 24 to review them.  
 25 Q. So if you would have seen this document it would

1 been in the e-mail that you received an hour  
 2 before the deposition, correct?  
 3 A. Correct. I was not able to review all the  
 4 documents.  
 5 Q. Fair enough and I'm not asking you which ones  
 6 you reviewed or did not review. I'm just trying  
 7 to understand you did not see this 30(b)(6)  
 8 notice prior to those e-mails coming in in the  
 9 morning, correct?  
 10 A. Correct, at least I don't recall. I'm not sure,  
 11 I don't think so.  
 12 Q. I see it tells me the date that we're supposed to  
 13 be here, tomorrow, I'm supposed to be here  
 14 tomorrow.  
 15 MR. JOHNSON: David, have you given him  
 16 the 30(b)(6) Notice?  
 17 MR. MICHAEL: I assume that, you know,  
 18 the package of material, that stuff was  
 19 transported between myself and Robert.  
 20 Had we discussed -- I can tell you that  
 21 I've discussed with him the content of the  
 22 inquiry, but I don't know if I actually told him  
 23 that this was a Rule 30(b)(6) deposition.  
 24 I don't know that I needed to get into  
 25 the weeds with him about that, but I mean you can

1 ask him if he's able to testify on behalf of the  
 2 International Human Rights Commission now in a  
 3 deposition.  
 4 MR. JOHNSON: Well, David, a 30(b)(6)  
 5 depo requires that the entity both designate  
 6 someone who can testify to the topics and also  
 7 educate themselves on the topics and it sounds  
 8 like here Mr. Shumake has done nothing to prepare  
 9 for the 30(b)(6) depo or educate himself on the  
 10 22 enumerated topics which is your burden under  
 11 Rule 30(b)(6).  
 12 MR. MICHAEL: Well, we are not  
 13 admitting that he's not educated on the topics  
 14 that are covered under that 30(b)(6) deposition  
 15 notice.  
 16 If you have an issue whether or not  
 17 International Human Rights Commission has  
 18 designated him as authorized to speak on behalf  
 19 of the International Human Rights Commission, is  
 20 that what you're asking?  
 21 MR. JOHNSON: Well, I mean that might  
 22 be a separate issue, but I guess we can approach  
 23 it this way. Let's start talking about the  
 24 topics and we'll see if Mr. Shumake has educated  
 25 himself on the particular topics or that hasn't

1 been done.  
 2 MR. MICHAEL: Okay, go forward.  
 3 BY MR. JOHNSON:  
 4 Q. All right, Mr. Shumake, as I was explaining, in  
 5 this deposition you understand that you're  
 6 testifying as the representative of IHRC,  
 7 correct?  
 8 A. Correct.  
 9 Q. You understand that you're still under oath?  
 10 A. Correct.  
 11 Q. Under penalty of perjury?  
 12 A. Yes, I do.  
 13 Q. And I won't go over all the deposition ground  
 14 rules again, but they kind of apply. Let's try  
 15 not to talk over each other. There's a court  
 16 reporter taking down everything you say.  
 17 If you don't understand the question I  
 18 ask feel free to ask me to rephrase it and I  
 19 will, fair?  
 20 A. Fair.  
 21 Q. Along those lines, the court reporter can't take  
 22 down head nods or "uh-huh" or "uh-uh", so I want  
 23 to ask that you give me --  
 24 A. I got it.  
 25 Q. -- verbal responses.

1 A. Yes or no. We're on the same page.  
 2 Q. On the same page and along those lines like let's  
 3 try not to speak over each other, fair enough?  
 4 A. Fair enough.  
 5 Q. If you don't ask me to clarify a question, I'm  
 6 going to assume that you understood my question,  
 7 fair?  
 8 A. What do you mean by that if I don't -- I can go  
 9 back and --  
 10 Q. If you don't understand a question I ask you,  
 11 feel free to ask me to clarify and I'll do the  
 12 best I can.  
 13 However, if you don't ask me to clarify  
 14 the question, I'm going to assume that you  
 15 understood the question I was asking, fair  
 16 enough?  
 17 A. Is that like a canned statement? I'm trying --  
 18 so if I don't understand a question, I may not  
 19 even know how to ask you that I don't understand  
 20 it, so -- because you just asked me about 30  
 21 something.  
 22 I can't even understand to ask you  
 23 about it because I don't know what it is.  
 24 Q. Right, but in that circumstance, Mr. Shumake, you  
 25 told me you didn't understand what a 30(b)(6)

1 A. I'm not sure if that's fair or not, that's what  
 2 I'm trying to get a gauge on.  
 3 Q. Fair enough, we can move on.  
 4 What type of organization is IHRC?  
 5 A. It's an intergovernmental organization.  
 6 Q. Where was it founded?  
 7 A. Islamabad, Pakistan.  
 8 Q. Who founded it?  
 9 A. I do not know the answer to that question.  
 10 Q. Do you know when it was founded?  
 11 A. I don't recall.  
 12 Q. Can you give me a ballpark?  
 13 A. I wouldn't know, I don't have a ballpark at all.  
 14 Q. How long has IHRC been in existence?  
 15 A. I do not know. It's been around for a long  
 16 period of time, I would say north of 10, maybe 20  
 17 years.  
 18 Q. What are you basing that answer on?  
 19 A. Just a recollection.  
 20 Q. Is that your personal recollection?  
 21 A. Yes.  
 22 Q. What facts are you recalling that leads you to  
 23 believe that IHRC has been around for north of 10  
 24 to 20 years?  
 25 A. I don't think it's been around north of 20 years,

1 depo was, right?  
 2 A. Correct.  
 3 Q. That's what I'm driving at.  
 4 A. Right.  
 5 Q. If I ask you a question that you do not  
 6 understand part or all of it, just let me know.  
 7 A. Got it.  
 8 Q. And if you don't let me know, then you answer yes  
 9 or no, then I'm going to assume that you  
 10 understood the question as posited, fair?  
 11 A. I don't agree with that part because if I don't  
 12 understand it to ask, that's what we miss each  
 13 other on.  
 14 Q. Right, well --  
 15 A. But I'm not incompetent, I understand that, and  
 16 if you say something that I don't understand I  
 17 may or may not know how to respond to it to even  
 18 say I don't understand.  
 19 Q. I gotcha.  
 20 A. Depends on if you're talking over my head or not.  
 21 Q. Well -- and I'm -- also on the other end I'm not  
 22 a mind reader, Mr. Shumake. And unless you tell  
 23 me that you don't understand it, then I have to  
 24 assume that you did in fact understand my  
 25 question, fair?

1 but north of 10 years based upon some documents  
 2 I've seen, but I'm not sure on the dates, so it's  
 3 between 10 and 20 years.  
 4 Q. What documents are you referencing?  
 5 A. The registration documents in the articles of  
 6 organization in Islamabad.  
 7 Q. And this is one of the weird things about a  
 8 corporate rep depo because technically your  
 9 testimony is IHRC's testimony, but you yourself  
 10 are someone who is kind of involved in this case,  
 11 so I gets a little weird.  
 12 And I'll try and be clear on if I'm  
 13 using you to refer to yourself as Robert Shumake  
 14 or you as IHRC. If that ever gets unclear, let  
 15 me know, but were you, Robert Shumake, involved  
 16 in the founding of IHRC?  
 17 A. NO, I wasn't.  
 18 Q. Do you know who was involved in the founding?  
 19 A. I do not know.  
 20 Q. When did you, Robert Shumake, become involved  
 21 with IHRC?  
 22 A. I'm not sure. I want to say 2013.  
 23 Q. How did you become involved with IHRC?  
 24 A. What do you mean by how, I'm not sure I  
 25 understand.

1 Q. Sure. So as a question posited to IHRC how did  
2 Robert Shumake become involved with the  
3 organization?  
4 A. I met one of the ambassadors, Ethiopian  
5 ambassador to the IHRC. Either I was in Ethiopia  
6 or we were in Dar es Salaam, Tanzania.  
7 Q. Was this an ambassador for the country of  
8 Ethiopia?  
9 A. Yeah, the country of Ethiopia to the IHRC.  
10 Q. The person you met who was a "ambassador" who was  
11 that person an ambassador for?  
12 A. The IHRC for Ethiopia.  
13 Q. So he was an IHRC representative?  
14 A. Correct, like United Nations representative or  
15 American Organization of States representative.  
16 There's many IGOs which is different than a  
17 non-profit. An IGO is just like the United  
18 Nations.  
19 Q. We can get into that, but just to be clear the  
20 person you met with in either Dar es Salaam -- I  
21 forget the other country you mentioned, but the  
22 person you met with, that was someone associated  
23 with IHRC who had a role with the country of  
24 Ethiopia, correct?  
25 A. Correct.

1 correct?  
2 A. Correct.  
3 Q. Where are those members located?  
4 A. The secretary general was located in Austria.  
5 He's no longer secretary general at this time.  
6 Q. Let's take those in turn.  
7 Who is the current vice-chairman of  
8 IHRC?  
9 A. No one right now.  
10 Q. Who's the current deputy chairman?  
11 A. No one right now.  
12 Q. Who is the current secretary general?  
13 A. No one right now.  
14 Q. Who is the current world chairman?  
15 A. I am.  
16 MR. MICHAEL: I'm sorry, current what,  
17 world chairman?  
18 MR. JOHNSON: World chairman, yes,  
19 sir.  
20 MR. MICHAEL: And his answer was  
21 himself, right?  
22 MR. JOHNSON: Right, his answer was "I  
23 am".  
24 A. Yes, myself.  
25 BY MR. JOHNSON:

1 Q. And did that person -- who was that person?  
2 A. I don't recall.  
3 Q. Was that the person that brought Robert Shumake  
4 in to IHRC?  
5 A. No, maybe he introduced me to the world chairman.  
6 Q. Who was the world chairman at the time?  
7 A. Mohamed Khan.  
8 Q. What was the first name?  
9 A. Mohamed Khan.  
10 Q. And where is Mr. Khan located?  
11 A. Islamabad, Pakistan.  
12 Q. You mentioned that Mr. Khan was the world  
13 chairman. Is the world chairman the top position  
14 in IHRC?  
15 A. Yes.  
16 Q. What's the No. 2 position in IHRC called?  
17 A. It's tricky. You have the vice-chairman, you  
18 have the deputy chairman, you have the secretary  
19 of state -- or, excuse me, the secretary of state  
20 is the terminology -- secretary general, excuse  
21 me.  
22 Q. So is there one world chairman?  
23 A. One world chairman.  
24 Q. And then it sounds like there's several other  
25 high ranking members under that world chairman,

1 Q. How many employees does IHRC currently have?  
2 A. We don't have any direct employees. Primarily  
3 mostly a volunteer basis.  
4 Q. Has IHRC ever had any direct employees?  
5 A. I want to say yes.  
6 Q. When did IHRC have direct employees?  
7 A. '14, '15, '16, somewhere in that time period.  
8 Q. So you testified IHRC had direct employees from  
9 2014 to 2016?  
10 A. Or '17.  
11 Q. Why did IHRC stop having any direct employees?  
12 A. World chairman went to jail, the organization  
13 kind of shifted to a bunch of rogue individuals.  
14 Q. Were those rogue individuals people who were  
15 employed by IHRC?  
16 A. Not 100 percent direct employees, but it could  
17 have been appointees. As an example, the  
18 secretary general was an appointee who went rogue  
19 and started a clandestine organization on his  
20 own.  
21 Q. What do you mean by a clandestine organization?  
22 A. Clandestine organization -- the way you become  
23 world chairman, you're appointed by the chairman.  
24 The way that you become -- you can't  
25 take on a role that you weren't appointed through

1 the bylaws of the organization.

2 You can't take the logo and the logo,  
3 the trademark or the usage of the organization,  
4 and use it for your own -- use it outside of the  
5 world chairman's blessing if you will.

6 Q. So the path of succession between world chairman  
7 is that the prior world chairman would appoint  
8 the next world chairman, correct?

9 A. Correct.

10 Q. What about the vice-chairman, deputy chairman and  
11 the secretary positions, how was the path of  
12 succession for those?

13 A. All appointed by the world chairman.

14 Q. I want to go back to what you termed a  
15 clandestine organization. Who is -- strike that.

16 You mentioned there was a clandestine  
17 organization. What does that clandestine  
18 organization do?

19 A. What were they doing?

20 Q. Yeah, are they currently in existence?

21 A. They may be in existence right now under a  
22 different name. They were in existence under the  
23 IHRC -- I want to say the ihrchq.com or .org, I  
24 don't specifically remember and they used IHRC's  
25 logo, they appointed new ambassadors from around

1 the world that was not sworn in by the world  
2 chairman or appointed by the world chairman.  
3 Raised funds to their own benefit and  
4 then they acknowledged the organization. All  
5 this was done when the world chairman was in  
6 Debtor's Prison.

7 Q. So --

8 A. So I took over. I sued the organization, I sued  
9 the clandestine group in Pakistan for trademark  
10 infringement, for copyright infringement, for  
11 breach of contract and got an injunction in a  
12 lawsuit against them.

13 That information of course went to  
14 Google, it went to Facebook, it went to all these  
15 different places and they just took the  
16 organization's information down.

17 Q. Let's unpack that. So this clandestine  
18 organization you claim took the IHRC ogo and  
19 trademark and began using it to their own  
20 purposes?

21 A. Correct, that's correct.

22 Q. And then if you would turn to Exhibit 1 for me.  
23 This is the letter to Mr. Coleman dated June 24,  
24 2016.

25 Is the logo at the top of what's

1 Exhibit 1 the IHRC logo that you were  
2 referencing?

3 A. Yes.

4 Q. And same logo at the bottom of the letter?

5 A. Right, that's correct.

6 Q. And this is the logo that you allege this  
7 clandestine organization took and began using  
8 inappropriately?

9 A. Correct.

10 Q. So they're not clandestine to the extent they're  
11 doing this openly, correct?

12 A. Yeah, they're doing it openly, right.

13 Q. When I think of the word "clandestine", it's  
14 someone doing something undercover. These guys  
15 are doing it open?

16 A. They took the website as their own, repopulated  
17 with new ambassadors without any jurisdiction or  
18 agreement to do it.

19 It was clandestine, it wasn't -- they  
20 didn't legally do it.

21 Q. Fair enough. So what is IHRC's current website?

22 A. Right now it's kind of -- it's dark right now. I  
23 don't even know what the current website is.  
24 There hasn't been any new activity.

25 Q. Was the prior website www.ihrchq.org the web

1 address that's listed?

2 A. Yes, it was. Then that website got hacked if you  
3 will by the other organization.

4 Q. So there was a bit of a technology lag. The  
5 IHRC's prior website was www.ihrchq.org, correct?

6 A. That was one of them. They had a few, maybe  
7 three or four.

8 Q. What were the other ones?

9 A. ihrcheadquarters.org, ihrc -- I don't know, I  
10 can't remember all of them.

11 Q. Why did IHRC have multiple websites?

12 A. Why did they have multiple websites? I can't  
13 answer the question.

14 Q. You mentioned that IHRC currently does not have  
15 any employees. Does IHRC have any physical  
16 office locations?

17 A. Islamabad, Pakistan, it's still headquartered  
18 there. The world chairman, I have done zero  
19 activities in the organization other than  
20 dismantling the entire board for the whole  
21 purpose of restructuring it.

22 Q. Who is in the Islamabad, Pakistan office?

23 A. It's held through the general counsel for IHRC.  
24 Not an office -- it's an office that -- with the  
25 lawyer that represents everything. He's now

1 managing the IHRC. The probable better way of  
2 saying it, it's in a document form right now.

3 Q. Fair enough, so there are no physical IHRC  
4 locations as we currently speak?

5 A. Not -- well, I'm not sure. There may be -- as  
6 an example a person is still appointed as an  
7 ambassador. I didn't take the ambassadorships  
8 away, so there's still ambassadors, so they could  
9 have an office in Ghana, that's their office  
10 that's there.

11 You could have an office in -- these  
12 offices still exist around the world, but as far  
13 as the headquarters there isn't a headquarters at  
14 this present moment.

15 Q. These offices that may exist around the world,  
16 does IHRC own them?

17 A. No, they don't own the offices. You're  
18 appointed, so no different than you're appointed  
19 as honorary counsel in the United States.

20 You can be honorary counsel out of your  
21 home and you still do the work for that country.

22 Q. So by offices you just mean locations where the  
23 ambassador may work out of?

24 A. Correct.

25 Q. That would be owned or leased by that specific

1 ambassador?

2 A. Correct.

3 Q. And that brings me to my next question. What is  
4 an IHRC ambassador?

5 A. What is -- what do you mean by that?

6 Q. Right, what is that position?

7 A. It's no different than a U.S. ambassador for a  
8 specific country. You represent a specific  
9 subject matter like United Nations had -- there's  
10 an ambassador to extraterrestrial life in the UN,  
11 and for people that believe in aliens and have  
12 the connectivity there, but the United Nations  
13 does have a role for the ambassador for  
14 extraterrestrial life.

15 There are ambassadors for countries  
16 that people have never gone to or never go to,  
17 but they're still ambassadors. There are  
18 ambassadors for business, business development  
19 issues. There's ambassadors for -- business is  
20 limitless, it's just not country specific, they  
21 are task specific as well.

22 Q. So an IHRC ambassador is someone that IHRC  
23 appoints to represent the organization in  
24 specific subject areas, is that right?

25 A. Subject areas and/or countries, correct.

1 Q. How does a person become an IHRC ambassador?

2 A. They're appointed by the world chairman.

3 Q. What is -- any other vetting process other than  
4 the world chairman appoints the ambassador?

5 A. Interview, resume. There's a process between the  
6 ambassador and the minister of foreign affairs.

7 Q. Is the minister of foreign affairs another  
8 position within IHRC?

9 A. Yes.

10 Q. I'm going to go back to IHRC's website. Does  
11 IHRC have a current legitimate website?

12 A. I do not know the answer to that question right  
13 now. Since I'm been managing the actual legal  
14 websites if there's something that's up there  
15 it's clandestine unless you bring something to my  
16 attention I would say this is legitimate or it's  
17 not.

18 Q. Fair enough. Let me ask you this.

19 Does Robert Shumake as world chairman  
20 have control over any website affiliated with  
21 IHRC?

22 A. Yes, I do.

23 Q. Which website is that?

24 A. I believe IHRC headquarters, I have ihrchq.org.  
25 I think there a third one, I forget what it is.

1 I'm rusty with it, so I don't know the answer.

2 Q. Would it be ihrc-hq?

3 A. That one as well, yes.

4 Q. Any other websites?

5 A. I believe so. It's so many websites. When this  
6 clandestine organization took the first website I  
7 tried to get it back, weren't able to get it back  
8 at first so we set up another website and it  
9 might by -hq or headquarters -- I don't know, but  
10 I do know that this was the main one and this  
11 this the one I was able to get back from Google  
12 or the host group.

13 Q. So it's your testimony here today that Robert  
14 Shumake is the owner and/or controller of the  
15 www.ihrchq.org website?

16 A. It wouldn't be Robert Shumake, it would be --  
17 it's as an agent for the organization. I don't  
18 own it, Robert doesn't own it.

19 Q. Fair enough. So I'll break that question up into  
20 pieces. Is it your testimony here today that the  
21 official website for IHRC is the www.ihrchq.org  
22 website?

23 A. That's the official website to the best of my  
24 knowledge. I can't remember, it could be -- I  
25 don't remember.

1 Q. And that is the website that as world chairman  
2 Robert Shumake would be able to direct -- put  
3 this on the website --

4 A. Presently, yes, I can do that now. I had to get  
5 it back from Google in order to do that. I don't  
6 think it was Google, it was something comparable  
7 that's in that country, like a host -- not  
8 GoDaddy, it's not Google, it's a host comparable  
9 to it.

10 Q. The domain name?

11 A. Domain name.

12 Q. Right, so I believe you testified earlier that  
13 you had gotten the domain name for IHRC websites  
14 back, is that not true?

15 A. That is true, but what I'm saying is I don't know  
16 if it's a .org or hq or which one it is, but I  
17 was able to get the -- whatever one I sued on I  
18 got it back.

19 Q. You don't remember which website domain name you  
20 got back?

21 A. No, I don't, it's fuzzy, I don't recall. It  
22 could look it up, but I don't have information  
23 right now.

24 Q. Maybe we can do it during a break.

25 A. Okay.

1 found what you believe to be the official website  
2 and that was www.ihrchq.org, correct?

3 A. Correct.

4 Q. In your interrogatory responses you listed the  
5 website of IHRC as www.ihrchedquarters.org?

6 A. Correct.

7 Q. So that is not the official website of IHRC,  
8 correct?

9 A. They're all official.

10 Q. Your testimony as IHRC's representative is that  
11 all three IHRC websites, the www.ihrchq.org, the  
12 www.ihr-hq.org and the www.ihrcheadquarters.org  
13 are all the official websites of IHRC?

14 A. Correct.

15 Q. Why would an organization have three separate  
16 websites?

17 A. I can't answer why they would do that. I mean,  
18 it happens in business all across the nation, the  
19 world. There are multiple websites for a main  
20 organization.

21 Q. Mr. Shumake, you are designated as the  
22 representative of IHRC, so as a representative of  
23 IHRC you can't answer that question?

24 A. What you're asking is -- and maybe another  
25 question, the organization when the world

1 MR. MICHAEL: Mr. Johnson, could you  
2 inquire as to what date that he got it back when  
3 he says he got it back? I'm a little fuzzy about  
4 the timeline.

5 MR. JOHNSON: Who's speaking?

6 Q. Attorney David Michael.

7 MR. JOHNSON: David, I'm conducting my  
8 deposition. If you want to ask questions in your  
9 portion you can ask questions in your portion,  
10 but you can't direct me how I'm going to question  
11 the witness?

12 MR. MICHAEL: I wasn't directing you, I  
13 was just making an inquiry.

14 MR. JOHNSON: Well, the way this  
15 format works is I ask the questions, you can  
16 object if you have an objection to form and then  
17 I'll pass the witness, but you cannot direct the  
18 other side or interject in our questioning.

19 MR. MICHAEL: Okay, go forward.

20 BY MR. JOHNSON:

21 Q. Mr. Shumake, if you could turn to Exhibit 38.  
22 (An off-the-record discussion was  
23 held).

24 Q. And, Mr. Shumake, when you were on a break  
25 looking for Exhibit 38 you mentioned that you had

1 chairman was in Debtor's Prison a clandestine  
2 organization stole the main headquarters and you  
3 still had people that were working in the  
4 organization.

5 I believe the ihrc-hq, another  
6 gentleman out of New York, they managed that  
7 particular group. I started the other one  
8 headquarters to do the work.

9 So that's kind of what had happened.  
10 But there's no reason -- that's what was going  
11 on. The website, some of the sites kept not --  
12 the websites were going down and so by we  
13 providing capital or putting capital in an  
14 organization I needed to make sure that the IT  
15 was operating properly.

16 Q. Thank you for that answer. That's not the  
17 question I asked. The question I asked you is,  
18 as the representative of IHRC you testified that  
19 all three websites were the official website of  
20 IHRC.

21 My question is, why does IHRC as an  
22 organization have three separate websites?

23 A. I think I answered that for you.

24 Q. You did not.

25 A. What I said was the world chairman was in

Debtor's Prison which meant that he was not able to operate the headquarters site, that was clandestine, it was taken, was stolen.

And the group out of New York had ihrc-hq that represented another part of the organization and I was over the Americas. That is why it was set up.

Q. And you started the website ihrcheadquarters.org?

A. That's correct.

Q. And by "you" --

A. Subsequently I went out and sued and I got all the sites.

Q. So it's your testimony that you, Robert Shumake, have the legal right to the three domain names for the websites we've been discussing?

A. Correct, I do.

Q. What about the trademark for IHRC's logo, who controls that right now?

A. The world chairman.

Q. And is that yourself, Robert Shumake?

A. Yes.

Q. Have you ever received any legal order granting Robert Shumake as IHRC world chairman the right to the logo?

A. Yes.

Q. What court issued that order?

A. Islamabad, Pakistan.

Q. And to be clear, that was an order issued from the court, correct?

A. Correct.

Q. A physical copy of that order exists somewhere in the world, correct?

A. It does.

Q. We have asked for that in discovery and you have not provided it.

A. You're asking me a question?

Q. Yes, I guess my question is why has that not been provided in response to our discovery request?

A. I don't know, I can't answer that question. I don't know what you're asking for.

Q. Have you taken -- since you have allegedly gained control of the three IHRC websites have you taken any action with regards to those three websites?

A. No, other than getting the headquarters one shut down.

Q. So you got the www.ihrchq.org website shut down?

A. Yes.

Q. How did you do that?

A. My lawyer submitted the court order to the host of that website.

Q. And then the company --

MR. MICHAEL: Excuse me, I did not -- this is David Michael. I did not hear his exact answer. His lawyer submitted the court order to where?

THE WITNESS: The host.

MR. JOHNSON: The company who had hosted the website.

MR. MICHAEL: Okay.

BY MR. JOHNSON:

Q. You asked your lawyer to submit the court order to the company that hosted the www.ihrchq.org website and your testimony is that company took down the website?

A. Right.

Q. Is that correct?

A. Yes, that is correct.

Q. Did you take any action with regard to the other two websites we've been discussing?

A. Did I take any action? Well, the other one was in my possession. Did not take any action there.

Q. By "the other one" you mean the --

A. Headquarters.org.

Q. What about the website with the - between ihrc and hq?

A. I'm not sure, I don't recall. I may have taken action against that one as well, I'm just not sure. My main focus was to take possession of the clandestine site.

Q. Let's take a look at Exhibit 22.

DEPOSITION EXHIBIT 22

IHRC agreement, etc.

WAS MARKED FOR IDENTIFICATION.

Q. Mr. Shumake, Exhibit 22 is several IHRC related documents that have been produced to us in this case, the first being an agreement pertaining to the programs and status of the International Human Rights Commission, do you see that?

A. I see it.

Q. And the website on the cover page of this document is the www.ihrc-hq.org website we're been talking about, correct?

A. Correct.

Q. Can you tell me what this agreement is?

A. This would be -- well, there's a lot of stuff in here. You got the accession agreement. When you develop an IGO, intergovernmental organization you're -- just like United Nations you have contractual agreements between countries and other intergovernmental organizations.

1 Those are what you call accession  
2 agreements. So I see that.

3 Q. Can you say that again, you call them what type  
4 of agreement?

5 A. Accession agreements.

6 Q. What generally is an accession agreement?

7 A. It's an agreement between two organizations.

8 Q. To what end?

9 A. An example of that would be United Nations has an  
10 accession agreement with South Sudan which became  
11 a country less than seven years ago to become a  
12 member of the South Sudan.

13 These are agreements based upon the  
14 Vienna Convention, there's legal ramifications of  
15 the Vienna Convention that is if you're going to  
16 do business with another organization you create  
17 an accession agreement.

18 Benjamin Franklin was an ambassador, he  
19 took accession agreements and created  
20 relationships between Europe and France. Those  
21 are what those agreements are about.

22 Q. So an accession agreement governs the  
23 relationship between either a country and an  
24 entity or two entities?

25 A. Correct, two intergovernmental organizations.

1 A. Correct.

2 Q. And then this MOU is unsigned, but on the  
3 signature block that's corresponding to Mr. Khan  
4 it has for the participant parties/the state/  
5 organization United Nations Security Council and  
6 lists Andrej Verity as a signatory for the United  
7 Nations Security Council, is that right?

8 A. Yes, I'm looking at it. I don't know who Andrej  
9 Verity is. I don't know who that is.

10 Q. You weren't involved with -- let me ask you this.  
11 Were you ever -- was Robert Shumake  
12 ever involved with getting one of these accession  
13 agreements in place with any entity?

14 A. Recently, I forget the name of the organization.  
15 It's an organization similar to the African  
16 Union. I was able to get an accession agreement  
17 between that organization, I don't know the name  
18 of the organization, I can't -- it slips me right  
19 now, and so it would be countries that are new  
20 countries and an example of that would be like a  
21 South Sudan.

22 Q. Other than the accession agreement you just  
23 mentioned has Robert Shumake ever been a  
24 signatory for any other accession agreement for  
25 IHRC?

1 Q. The agreement that is in Exhibit 22, with whom is  
2 this an agreement between the IHRC and?

3 A. This here in a generic agreement that could be  
4 with any organization. It lists the bylaws,  
5 articles, how the organization governs itself,  
6 the subsidiary organizations.

7 Q. So this is a template agreement that would be  
8 used with specific entities that IHRC would want  
9 to contract with, correct?

10 A. Correct and vice-versa.

11 Q. If you could turn to the end of the agreement,  
12 seven or eight pages in, you'll see a document  
13 titled MOU/Instrument of Accession?

14 A. Correct, that's the agreement that I was talking  
15 about.

16 Q. So this is kind of the signature page for the  
17 prior agreement, correct?

18 A. It's a little more meatier than this. I'm not  
19 sure the group that put that on there. It has  
20 more meat and potatoes on it than this one-page  
21 document.

22 Q. And Mr. Khan whose signature is there, that's the  
23 Mr. Khan you were referencing who was the world  
24 chairman before that went to Debtor's Prison in  
25 Pakistan?

1 A. No, not that I can recall. There might have been  
2 -- yeah --

3 Q. Could you repeat that, Mr. Shumake, I couldn't  
4 hear you?

5 A. No, not that I can recall, nothing around this  
6 time period. These are all -- I don't even know  
7 what this is. 2018, unaware of it.

8 Q. You're unaware of what agreements IHRC would have  
9 been entering into in 2018, fair?

10 A. Not all of them. Some of them I had knowledge  
11 of.

12 Q. What agreements did you have knowledge of in  
13 2018?

14 A. The agreement when the IHRC became a member of  
15 the UNEP, United Nations Environmental Program.

16 Q. Were you involved in that agreement?

17 A. Yes.

18 Q. What was Robert Shumake's role in that agreement?

19 A. I organized the deal between IHRC and the United  
20 Nations Environmental Program.

21 Q. Were you the signatory for IHRC for that  
22 agreement?

23 A. There wasn't a signature needed, just documents  
24 and they issue their agreement, the United  
25 Nations.

1 Q. That agreement was something that was  
 2 unilaterally issued by the United Nations,  
 3 correct?  
 4 A. When you say unilaterally an issue, what do you  
 5 mean by that.  
 6 Q. The United Nations was the only party that issued  
 7 something?  
 8 A. Correct. You send your documents in, they do due  
 9 diligence on your organization, determine if you  
 10 meet the standards of an IGO or NGO and then they  
 11 issue their -- they issue their document to you.  
 12 So now you become a member of the  
 13 United Nations program. We're also members of  
 14 economic -- United Nations EP -- UNEP is more  
 15 prestigious than the other, way more prestigious.  
 16 Q. What UN program is IHRC a member of currently?  
 17 A. UNEP and ECOSOS.  
 18 Q. You said ECOSOS?  
 19 A. ECOSOS, I can look it up.  
 20 Q. What is that?  
 21 A. That's economic subsidiary of the United Nations.  
 22 Q. Other than those two programs is IHRC involved in  
 23 any other UN programs?  
 24 A. No, not to my knowledge.  
 25 Q. In 2016 what UN programs was IHRC involved in?

1 Q. What is IHRC's charitable mission?  
 2 A. It's not necessarily set up to be a charity by  
 3 itself, it's set up to be an intergovernmental  
 4 organization that does charitable work.  
 5 In and of itself it's not a charity.  
 6 Q. Has IHRC ever applied for any type of license to  
 7 conduct business in the United States?  
 8 A. License? What do you mean?  
 9 Q. Any type of license with any governmental entity  
 10 in the United States?  
 11 A. I'm still lost. What do you mean by license,  
 12 like a construction license or something like  
 13 that or --  
 14 Q. Any type of license?  
 15 A. No, there hasn't been a license to IHRC. I did a  
 16 name change on a not for profit 501(c)(3) to get  
 17 not for profit designation in the U.S.  
 18 That's the only thing that IHRC has  
 19 done domestically here. The IHRC is a worldwide  
 20 organization, so when I got appointed it was to  
 21 raise capital and do the work that I had been  
 22 doing independent of the IHRC.  
 23 At times donors or individuals want to  
 24 have a tax write-off. The IHRC would not have a  
 25 U.S. tax deduction criteria.

1 A. ECOS.  
 2 Q. Just the ECOS?  
 3 A. Yes, ECOSOS.  
 4 Q. ECOSOS, okay, and I'm sure that's something that  
 5 we could just --  
 6 A. It's public and actually it's in a document that  
 7 I submitted, it should be.  
 8 Q. I've seen what you've referencing.  
 9 A. Here it is, ECOSOC.  
 10 Q. Okay, ECOSOC, all right.  
 11 And in Exhibit 22 there's also a  
 12 charter, correct?  
 13 A. Say that one more time.  
 14 Q. Sure. If you'll flip -- we were talking about  
 15 the MOU instrument of accession. If you'll flip  
 16 another page the kind of document starting from  
 17 the back in is the charter of IHRC?  
 18 A. Correct.  
 19 Q. Does this charter -- is this the document that  
 20 governs IHRC's operations?  
 21 A. This and the bylaws.  
 22 Q. Any other document that govern their operations?  
 23 A. Bylaws, this charter and I want to say there's  
 24 another document. I just can't -- I'm a little  
 25 foggy right now.

1 Q. So it's your testimony that IHRC has applied for  
 2 tax exempt status as a 501(c)(3) organization  
 3 with the IRS?  
 4 A. No, IHRC did not apply. I controlled a 501(c)(3)  
 5 independent of that and I did a name change.  
 6 Q. What entity was that that you controlled?  
 7 A. The 501(c)(3)?  
 8 Q. Yes.  
 9 A. It's called a SHU foundation.  
 10 Q. SHU?  
 11 A. S-H-U.  
 12 Q. And you changed the SHU Foundation's name to what  
 13 name?  
 14 A. The International Human Rights Commission.  
 15 Q. You changed the SHU Foundation's name to IHRC's  
 16 name?  
 17 A. I did.  
 18 Q. Did you submit any documentation to the IRS in  
 19 conjunction with that?  
 20 A. Wasn't necessary, it's how it works, it's a state  
 21 name change.  
 22 Q. What state was the SHU Foundation registered in?  
 23 A. Georgia.  
 24 Q. So you changed the SHU Foundation's name with the  
 25 Georgia Secretary of State to International Human

1 Rights Commission, correct?

2 A. That's correct.

3 Q. And that's all the steps you took with regard to  
4 that name change and the entity's 501(c)(3)  
5 status, right?

6 A. Correct.

7 Q. As an intergovernmental organization does IHRC  
8 have to register with the United States  
9 Department of State or any other governmental  
10 agency?

11 A. No, it does not.

12 Q. So it's your testimony that IHRC does not have to  
13 register with either any state or federal  
14 authorities before conducting fundraising in the  
15 United States, correct?

16 A. Two different conversations you're asking me  
17 about.

18 Q. Well, let me ask you that question. Does the  
19 IHRC have to register with any federal or state  
20 governmental entity prior to conducting  
21 fundraising activities in the United States?

22 A. It does not, no different than an embassy that's  
23 in the United States in DC, or the chancelleries  
24 in New York.

25 You're able to raise money and people

1 can contribute to those causes, but they will not  
2 receive a tax write-off for it.

3 Q. And to be clear, IHRC has never registered with  
4 any federal or state governmental entity prior to  
5 conducting fundraising?

6 A. I have no idea, I don't know the answer to that  
7 question.

8 Q. To your knowledge it has not though, right?

9 A. I don't know.

10 Q. Well, as you sit here today, Mr. Shumake, you  
11 would know if it had, correct?

12 A. No, I wouldn't know if it had. I'm looking at a  
13 document you just sent me that was in 2018 which  
14 I was a member and that document was signed -- I  
15 had no knowledge of, so I can't speak on that.

16 What I can say is -- what I've done  
17 independent of that I just shared with you I did  
18 a name change so that I could receive funds and  
19 people could receive a tax benefit for it.

20 Q. And other than that 501(c)(3) name change, you're  
21 not aware to your knowledge as you sit here today  
22 of any other registration with any state or  
23 federal entity -- in the United States?

24 A. I wouldn't know anything about it, nor do I  
25 believe that you would have to have that to do

1 that.

2 It's not a U.S. entity.

3 Q. Regardless of whether you would or would not have  
4 to have that, you're not aware of IHRC doing  
5 that, correct?

6 A. Nope, I'm not.

7 Q. How does IHRC raise funds?

8 A. How does it raise funds?

9 Q. Yes.

10 A. From a world perspective?

11 Q. Sure.

12 A. People believe in what IHRC represents and they  
13 contribute to it across the globe. I don't know,  
14 I'm trying to remember, 20,000 members. It's  
15 massive -- or it was massive in its heyday.

16 Q. Is it your testimony that at one point IHRC had  
17 20,000 separate members?

18 A. Correct.

19 Q. How many members does it have now?

20 A. I have no idea. It's kind of flatlined based  
21 upon all the in-fighting and I'm going to  
22 restructure it in a way that it's sustainable.

23 Q. Is there a membership registry?

24 A. There has been one.

25 Q. Is there one now?

1 A. I don't know.

2 Q. Do you know who would control the membership  
3 registry if there was one?

4 A. Asra Khan.

5 Q. Who is Asra Khan?

6 A. She was the past minister of foreign affairs.

7 Q. If he was the past minister of foreign affairs  
8 why would he control IHRC's current membership  
9 registry?

10 A. She, she.

11 Q. Sorry, I apologize. If Ms. Khan was IHRC's past  
12 minister of foreign affairs why would she control  
13 IHRC's current membership registry?

14 A. That fell under the auspices of foreign affairs.  
15 Bringing members on, managing ambassadors and  
16 people that went out around the world to do the  
17 work.

18 Q. Right, and, Mr. Shumake, my question is directed  
19 towards the current membership registry.

20 And you testified that Ms. Khan was the  
21 past minister and my question is, why would a  
22 past minister control the current membership  
23 registry?

24 A. There's another trick word. There's no new  
25 members, so past and current are one in the same.

1 Q. When is the last time that IHRC gained a new  
2 member?

3 A. I have no idea, I don't know.

4 Q. Has IHRC gained a new member since you've been  
5 world chairman?

6 A. Not to my knowledge.

7 Q. Who is in charge of raising funds for IHRC?

8 A. Everyone, all leadership.

9 Q. Currently who does that consist of?

10 A. It doesn't consist of anyone. The whole  
11 organization is in flatline. That would be me if  
12 I chose to do it right now. There isn't anyone  
13 else that's operating.

14 Q. In 2016 who was in charge of raising funds for  
15 IHRC?

16 A. That would have been myself, that would have been  
17 Mohamed Khan, it would have been Asra Khan, a lot  
18 of people. Anyone that had a position  
19 responsible for raising money.

20 Q. Would each ambassador have a duty to raise funds?

21 A. That's what's supposed to happen.

22 Q. You said that was supposed to happen,  
23 Mr. Shumake?

24 A. Yes, uh-huh.

25 Q. Each ambassador was supposed to be out involved

1 A. Phone, text message, e-mail, WhatsApp across the  
2 board.

3 Q. Was there any formal policies and procedures in  
4 2016 for reporting the raising of funds?

5 A. What do you mean by that, reporting the raising  
6 of funds, no.

7 Q. Did IHRC have any written documentation,  
8 guidance, policies or procedures that governed  
9 how ambassadors would report funds that they  
10 raised?

11 A. No, not to my knowledge. It was just a role  
12 we're supposed to do, raise capital. My role was  
13 a little different in that I had a specific  
14 purpose, to go out to the Africa and the Americas  
15 in specific areas.

16 Q. Who kept the books for IHRC in 2016?

17 A. There were -- that's a trick -- no one, I'll just  
18 say no one kept the books.

19 Q. Were any books kept?

20 A. I don't know. I never was a part of any of that.

21 Q. By "books" you understand that I mean financial  
22 records, right?

23 A. I have no idea. I don't know. I doubt it,  
24 possibly, maybe, I'm not sure.

25 Q. Sure and my question was just making sure that

1 in collecting and raising funds, correct?

2 A. Correct.

3 Q. So does IHRC keep records of its fundraising?

4 A. I don't know the answer to that question. This  
5 organization, prior to me coming, it was not run  
6 very properly and I came in and put some  
7 structure around it.

8 Q. In 2016 when an ambassador raised funds -- let's  
9 say I'm an ambassador, I raised \$10,000 for IHRC.  
10 Who would they report that fact to?

11 A. The world chairman.

12 Q. So every dollar raised would be reported to the  
13 world chairman?

14 A. Yes.

15 Q. How would that fact be reported to the world  
16 chairman?

17 A. I don't know the answer to that question.

18 Q. Well, Mr. Shumake, you yourself were an  
19 ambassador at one point, correct?

20 A. Correct and still an ambassador.

21 Q. You're still an ambassador, so in 2016 as an  
22 ambassador how would Robert Shumake report  
23 raising funds to the IHRC world chairman?

24 A. We would talk about it.

25 Q. Would that be by phone?

1 you understood that I was referring to financial  
2 records as books.

3 A. Yeah. I don't know if IHRC actually had any  
4 books or they're required to have books.

5 Definitely I do know that those books are not  
6 required to be shown out to the world.

7 It's an IGO so it's a private  
8 organization that is above penetration.

9 Like United Nations does not give their  
10 books and records. The Organization of American  
11 States does not give their books and records.  
12 Intergovernmental organizations don't do that,  
13 nor are they required.

14 Q. Sure. So you don't know what financial records  
15 were kept in 2016, correct?

16 A. I do not.

17 Q. Do you know what financial records for IHRC are  
18 presently kept?

19 A. No. They're one in the same. There isn't  
20 anything happening in IHRC presently right now.

21 I have to put you in pause, I have to  
22 use the restroom.

23 Q. Sure, we can take a break.

24 (A recess was taken).

25 BY MR. JOHNSON:

1 Q. In 2016 when IHRC raised money, what forms of  
2 donation did IHRC accept?  
3 A. Cash.  
4 Q. What about checks?  
5 A. Never got any checks.  
6 Q. What about -- wouldn't IHRC accept a check?  
7 A. It never received any.  
8 Q. What about electronic deposits?  
9 A. Didn't have an account open at the time.  
10 Q. So your testimony is that IHRC did not have a  
11 bank account open in 2016?  
12 A. Not that I'm aware of.  
13 Q. Does IHRC have a bank account currently?  
14 A. Not any longer, I closed it all down.  
15 Q. For what time period did IHRC have a bank  
16 account?  
17 A. I think from 2018 to 2020.  
18 Q. Were those accounts held in IHRC's name?  
19 A. For a brief moment.  
20 Q. Was that for the 2018 to 2020 time period?  
21 A. Yes.  
22 Q. Were they ever held in any other name?  
23 A. How do I explain this? Actually there -- there  
24 may still be an IHRC account.  
25 Q. Which bank is that account with?

1 was appointed back in October or November. I'm  
2 not sure when the appointment actually took  
3 place, but I became -- at a certain date the last  
4 chairman stepped down, I became the world  
5 chairman.  
6 Q. If the last chairman stepped down and you  
7 testified earlier that the prior chairman always  
8 appointed the new chairman, by what operation did  
9 you then become the new chairman?  
10 A. He signed an agreement with me, he appointed me,  
11 documented it.  
12 Q. Mr. Khan signed an agreement with you appointing  
13 you as world chairman?  
14 A. Correct.  
15 Q. Can a donor donate to IHRC through their website?  
16 A. Not presently. What do you mean through their  
17 website? Through IHRC's website?  
18 Q. Correct.  
19 A. So the clandestine website allowed for like Visa  
20 and Mastercard payments, that kind of thing,  
21 which I have no -- I wouldn't know anything about  
22 that.  
23 And if they started another website I  
24 wouldn't know about that either. But no, we've  
25 -- there's never been a dollar raised through my

1 A. I think it's with Wells Fargo.  
2 Q. Who has control over that bank account?  
3 A. Attorney Nicole Birch.  
4 Q. Does Robert Shumake have any control or signatory  
5 authority over that Wells Fargo bank account?  
6 A. I don't think so, I'm not sure, I doubt it.  
7 Q. Are there any other IHRC accounts that you were  
8 referencing from the 2018 to 2020 time period or  
9 was it just that one Wells Fargo account?  
10 A. No, just that.  
11 Q. Do you know who opened that IHRC account?  
12 A. Attorney Nicole Birch.  
13 Q. In 2018 when the account was opened who was the  
14 world chairman of IHRC?  
15 A. I think the world chairman was still the world  
16 chairman.  
17 Q. And who was that individual?  
18 A. Mohamed Khan.  
19 Q. When did Robert Shumake become the world chairman  
20 of IHRC?  
21 A. I don't remember. I want to say January of 2019.  
22 I'm not sure, I can't remember, I'm just  
23 exhausted right now.  
24 Yeah, January of 2019 is when I -- no,  
25 I became the chairman in February of 2019 and I

1 platform with that.  
2 Q. In 2016 could a donor donate to IHRC through  
3 IHRC's website?  
4 A. Not to my knowledge.  
5 Q. Does IHRC provide donation receipts to donors?  
6 A. I don't know; I did.  
7 Q. You don't know if other ambassadors who were  
8 raising money did so?  
9 A. No, I don't know what they did.  
10 Q. Fair to say then that there was no formal policy  
11 or guidance at IHRC regarding donation receipts?  
12 A. Correct. Based upon my training a guy gives a  
13 sizable amount of money, give him a receipt.  
14 You can't give him a tax write-off for  
15 it, but you can give him a receipt.  
16 Q. So there would have been nowhere at IHRC where  
17 records of donation receipts were stored,  
18 correct?  
19 A. No.  
20 Q. In 2016 when IHRC received cash donations where  
21 were those donations stored?  
22 A. Where were they stored?  
23 Q. Yes.  
24 A. Safes, book bags.  
25 Q. You mentioned safes and bags. Anywhere else?

1 A. No, not that I know of.

2 Q. Where were -- let's take the safes first. Where

3 were the safes located that IHRC stored cash in

4 2016?

5 A. Atlanta. I don't know if 2016 my dates were off.

6 I'm wondering out right now. So I don't know --

7 Atlanta, California, I had a safe in Detroit,

8 those three places.

9 Q. And, Mr. Shumake, I'm using 2016 because that's

10 the year of the seizure. If it helps you better

11 to think of that reference as the time of the

12 seizure, that's fine too.

13 But what I'm driving at is during the

14 time period of the seizure which was in 2016

15 where did IHRC have safes that stored the cash?

16 So I've got Atlanta, California and

17 potentially Detroit?

18 A. Yes. Remember I just started raising capital in

19 that year.

20 Q. So prior to 2016 Robert Shumake had not been

21 raising any capital for IHRC, correct?

22 A. No. I was raising capital to develop this

23 housing project and water facilities.

24 Q. Does IHRC ever deposit cash donations it has

25 received into a bank account?

1 A. I may have sent a transfer to Ireland as a

2 deposit on a housing factory, but I also believe

3 they came over -- they came to visit me in the

4 U.S. to collect cash, but I don't recall.

5 Q. Has IHRC ever sent money by MoneyGram?

6 A. Yes.

7 Q. Where was that money sent?

8 A. Pakistan, Kenya, Tanzania, Ghana.

9 Q. How often would IHRC send money by MoneyGram?

10 A. A lot.

11 Q. Who in -- just generally who in those countries

12 would IHRC be sending the money to?

13 A. Mohamed Khan, Asra Khan -- I forget the other

14 names.

15 Q. What about in Kenya, who was the IHRC sending

16 money by MoneyGram to in Kenya?

17 A. Amos Meara (sp). He was a representative in

18 Kenya helping us organize.

19 Q. So Amos was an IHRC representative in Kenya,

20 correct?

21 A. Correct, Tanzania.

22 Q. Did IHRC have any representatives in Tanzania?

23 A. Yes.

24 Q. Who were they?

25 A. I don't recall their names, but I would have sent

1 A. Not to my knowledge.

2 Q. For the Wells Fargo bank account that did exist

3 do you know where the money to set up that bank

4 account came from?

5 A. Came from me.

6 Q. Was that your personal funds?

7 A. Yes.

8 Q. So you put some of Robert Shumake's personal

9 funds into the IHRC Wells Fargo bank account,

10 correct?

11 A. Yes.

12 Q. How much?

13 A. \$100 maybe, whatever the minimum was to open the

14 account. I don't know what it was.

15 Q. Nothing more than kind of the account minimum

16 balance?

17 A. Correct.

18 Q. Were there -- did anyone else put any funds into

19 that bank account to your knowledge?

20 A. I don't know.

21 Q. In 2016 did IHRC ever transfer money

22 electronically?

23 A. I don't recall.

24 Q. Did Robert Shumake working for IHRC ever transfer

25 IHRC's money electronically?

1 money --

2 Q. Roughly how many -- say that again, Mr. Shumake.

3 A. I would have sent money for the purpose of doing

4 projects over there. If you got the Western

5 Union report you would see that I've sent a lot

6 of money over through Western Union.

7 Q. You would have sent money, IHRC's money, through

8 either MoneyGram, Western Union, another money

9 service to IHRC representatives in both Kenya and

10 Tanzania, correct?

11 A. Kenya, Tanzania -- I've sent them everywhere, all

12 over the world doing the work.

13 Q. And with respect to Kenya and Tanzania you

14 testified that was a fair amount of money,

15 correct?

16 A. What do you mean "fair amount of money"? I'm

17 lost with that word.

18 Q. Sure. I think you testified it was a substantial

19 amount of money?

20 A. Over time? I don't know.

21 Q. Yes.

22 A. I sent enough money that they -- the agent asked

23 me about suspicious activity, but I sent money to

24 people that were working in third world

25 countries.

And so as you can realize -- well, however they set the system up that these countries are not supposed to receive capital, so how else do you get it there? You take it in cash.

And the example of that is having a problem with Western Union to send money.

Q. Was it hundreds of thousands of dollars that you were sending?

A. I don't recall.

Q. Do you know if it was over or under \$100,000 that you sent electronically to Kenya and Tanzania?

A. I don't recall.

Q. Did IHRC also use couriers to transport cash?

A. Yes.

Q. How were couriers employed by IHRC? Were they employees, 1099 contractors?

A. IHRC would not have a 1099, that's IRS code. As an intergovernmental organization we're not a part of that same system.

Q. Fine. Were the couriers that IHRC used paid as employees of IHRC or were they paid as independent contractors?

A. Diplomatic couriers.

Q. We can break this down part by part. Was a

courier that IHRC used an employee of IHRC?

A. They're diplomatic couriers. They don't -- if you study the Vienna Convention it doesn't work that way.

There is a diplomatic courier body that is independent of any of that and these are people that are a part of the whole diplomatic community. They're not employees, nor are they independent contractors, they're specific to the work that they do.

And in this case they were appointees volunteers if you will to the IHRC.

Q. Were the couriers paid for their work?

A. They got fees at times, not all of the time.

Q. When a courier was paid for his or her work how did they receive the fees?

A. In cash.

Q. Would that be a portion of the cash that they were transporting?

A. Not necessarily.

Q. They would transport a certain amount of cash and then they would also be paid in cash for transporting that cash, correct?

A. Yes, you could say that.

Q. How much would they be paid in cash?

A. \$500 to a few thousand dollars.

Q. How was that rate set?

A. I don't recall, just depends on what we were trying to do at the time.

Q. How did IHRC select its couriers?

A. What do you mean?

Q. If IHRC is looking for people to courier cash for them are there any criteria that they used?

A. I wouldn't know about any other person as it related to IHRC. I can just talk about the people that I work with.

I recommend to the world chairman, he vetted them and he appointed them directly himself.

Q. For the couriers that you, Robert Shumake, were involved in how were those couriers selected?

A. I recommended them to the world chairman, he vetted them and then he would appoint them.

The world chairman at the time did all the appointees. I did not have any jurisdiction over who he appointed, but I recommended them and he appointed them.

Q. Sure. Prior to recommending them what would you look for in a courier?

A. Honesty. In this specific case if that's what

you're asking me, I've been knowing Mr. Coleman for years. Very honest, reliable. He spent time going to Africa with me and so as you've checked his travel records he's been all over the world.

He's the perfect candidate that understands the diplomatic platform and the laws thereof. The others were attorneys.

Q. Does Mr. Coleman have a military background?

A. He does.

Q. He does?

A. He does.

Q. What branch did he serve in?

A. U.S. Army.

Q. Do you know how long he served?

A. Four years.

Q. Do you know what this role in the Army was?

A. Sergeant.

Q. Do you know what type of job he did in the Army?

A. I do not know.

Q. Do you know if Mr. Coleman had any prior experience as a cash courier prior to his work at IHRC?

A. Yes, he was executive director of the Botswana American Chamber of Commerce.

Q. And in that role he served as a courier for cash?

1 A. Maybe at times. He was at the appointment of the  
2 honorary counsel which was myself.

3 Q. You would know whether or not Mr. Coleman as  
4 executive director worked as a cash courier in  
5 that role, correct?

6 A. In that role he did multiple things other than  
7 that in that role, but yes, he could take cash.  
8 As I've said to the other gentleman, when you're  
9 overseas your credit cards don't work.

10 90 percent of the time -- we did a lot  
11 of trade missions and so we needed cash to make  
12 sure we had cash to pay for the hotel room to pay  
13 for our retreat centers and those types of  
14 things.

15 Your credit cards, they usually got  
16 stopped or turned off because of where we were  
17 going. You couldn't be overseas in another  
18 country and your credit cards don't work and you  
19 don't have any cash.

20 Q. Does IHRC have any policies governing couriers or  
21 the performance of their duties as couriers?

22 A. Just through the Vienna Convention law that says  
23 what a diplomatic courier can do. It's not a  
24 cash courier, it's a diplomatic courier by the  
25 way.

1 to do as a diplomatic courier.

2 Some of them are supposed to have  
3 diplomatic passports, but usually U.S. citizens  
4 do not, but you can have a diplomatic ID card  
5 which is what they had.

6 Q. And diplomatic identification cards are issued by  
7 the United States Department of State, correct?

8 A. No, the diplomatic ID cards, diplomatic courier  
9 cards specific to this section we're talking  
10 about, are issued by the intergovernmental  
11 organization. It has nothing to do with -- it's  
12 a worldwide organization.

13 We just happen to be -- we just happen  
14 to have our first -- I was a first ambassador in  
15 the U.S., so all those things were not created  
16 and secure yet, but based upon --

17 Q. Does anyone at IHRC have a diplomatic  
18 identification card issued by the United States  
19 Department of State?

20 A. I do not know in relation to IHRC. I used to  
21 have a diplomatic card from the Secretary of  
22 State as the honorary counsel for the two  
23 countries that I represented and you have copy of  
24 that.

25 Q. Yes, and what years did you have that diplomatic

1 Q. Are you familiar with what a diplomatic bag or  
2 pouch is?

3 A. I am.

4 Q. Does IHRC have any diplomatic bags or pouches?

5 A. Yes.

6 Q. Does IHRC use those diplomatic bags or pouches to  
7 courier cash?

8 A. They have.

9 Q. Who issues those diplomatic bags or pouches?

10 A. Who issues those? What do you mean by that?

11 Q. Sure. I mean if IHRC has a diplomatic bag is  
12 that just a bag that IHRC has, does it come from  
13 somewhere?

14 A. IHRC would appoint -- so if you're appointed as a  
15 diplomatic courier you could get a bag. The IHRC  
16 would not be a part of that process other than  
17 the appointee of the courier.

18 So all the diplomatic couriers have  
19 diplomatic cards, diplomatic courier cards based  
20 upon what they were supposed to do.

21 And then if you go further into the  
22 Vienna Convention laws it says what a diplomatic  
23 courier is supposed to do. It talks about the  
24 diplomatic pouch. If you go into your Secretary  
25 of State's website it determines what you're able

1 identification card?

2 A. 2013 to 2018 I think, I'm not sure.

3 Q. And that diplomatic identification card was not  
4 for your role at IHRC, correct?

5 A. They're interconnected. Not as my role as IHRC  
6 deputy chairman at the time, but it's -- how do  
7 you not be an ambassador once you're appointed.  
8 You don't ever lose a title, you always have that  
9 designation.

10 Q. And my question was, to the extent that the  
11 United States Department of State may have issued  
12 you a diplomatic identification card, that was  
13 not based on your role with IHRC?

14 A. IHRC had nothing to do with that. IHRC was not a  
15 U.S. organization, so Secretary of State specific  
16 was for countries that were doing -- had  
17 accession agreements with the United States and  
18 the United States would give their membership ID  
19 cards in their system.

20 Q. Does anyone at IHRC have a diplomatic  
21 identification card issued by any other country  
22 or governmental entity?

23 A. Yes.

24 Q. Who?

25 A. The world chairman -- there are probably a few

1 people. Their IDs, they're moving around,  
2 countries give those identification, diplomatic  
3 passports. Equatorial Guinea, there are many --  
4 it's limitless.

5 Q. You mentioned the prior world chairman, Mr. Khan,  
6 correct?

7 A. Yes.

8 Q. With what country was he issued a diplomatic  
9 identification card?

10 A. That would be a passport. I think it was  
11 Equatorial Guinea or Guinea-Conakry, I'm not  
12 sure.

13 Q. Earlier you were talking about using MoneyGram.  
14 What were MoneyGram's fees for electronically  
15 transferring cash?

16 A. I don't know; too much.

17 Q. You don't remember how much it cost to send, say,  
18 \$100,000 by MoneyGram?

19 A. Way too much money.

20 Q. Do you recall how much it cost to use Western  
21 Union?

22 A. Same amount of money, too much. With the  
23 invention of M-Pesa, Mobile Money, MoneyGram and  
24 Western Union are now trying to compete because  
25 they were overcharging for brick and mortar.

1 He's appointed, he does the work. He's at the  
2 behest of the world chairman.

3 Q. So if Darren Coleman was going to report to  
4 anyone at IHRC in 2016 it would have been the  
5 world chairman?

6 A. He was under the jurisdiction of the world  
7 chairman. Of course because I had a relationship  
8 with him, it remains to be seen that we would  
9 have discussion about what his role was and what  
10 he was doing, but I didn't appoint him.

11 Q. Who at the IHRC had the authority to tell Darren  
12 Coleman to either do or not do something?

13 A. The world chairman or I could do it as a deputy  
14 chairman as well.

15 Q. Was that the case in 2016?

16 A. Yeah. I just didn't have the power to appoint.

17 Q. Right and that's why I'm asking you about the  
18 supervision.

19 A. There's no supervision.

20 Q. Who had the power to tell Darren Coleman take  
21 this money from here to here?

22 A. Well, in that case it would be me and the world  
23 chairman could have done that as well or the  
24 minister of foreign affairs.

25 Q. Let's say someone didn't like the way Darren

1 So now money is moving differently and  
2 you have the Hawala money movement for certain  
3 countries as well.

4 Q. You would agree with me that now it's fairly easy  
5 to move money electronically with Venmo and Zelle  
6 and companies like that, correct?

7 A. Moving money where?

8 Q. Anywhere between two people electronically?

9 A. Yes, they took that from East Africa. PayPal  
10 took the idea from M-Pesa, so Cash App, Zelle,  
11 Venmo.

12 Q. These are all current services where money can be  
13 transferred electronically, right?

14 A. Yes, for smaller amounts for the most part, yes.

15 Q. How many times has Darren Coleman transported  
16 money for IHRC?

17 A. I do not know. He asked me that question  
18 earlier.

19 Q. Did Darren Coleman ever transport money for any  
20 other ambassador at IHRC other than Robert  
21 Shumake?

22 A. No, not that I know of.

23 Q. Who supervised Darren Coleman at IHRC?

24 A. Supervised him? It doesn't work like that. He's  
25 a diplomatic courier. He has no supervision.

1 Coleman did his job taking money from X place to  
2 Y place, like who would have the power to tell  
3 him to do it differently?

4 A. The world chairman.

5 Q. Anyone else?

6 A. I could do it.

7 Q. Anyone other than the two of you?

8 A. I didn't have the ability to appoint or  
9 disappoint him.

10 Q. And I understand that concept and you testified  
11 to that, Mr. Shumake. I'm -- my question is  
12 after he is appointed in terms of the day-to-day  
13 operations who had the authority to tell a  
14 courier such as Mr. Coleman, you know, go here,  
15 pick up this money there, that kind of thing?

16 A. That would be under my role on fundraisers. I  
17 was in direct communication with him.

18 Q. When Mr. Coleman was traveling on behalf of IHRC  
19 transporting money who paid for his travel  
20 experiences?

21 A. I did, he did.

22 Q. It's your testimony that both yourself and  
23 Mr. Coleman would pay for his travel expenses?

24 A. Sometimes, yes. He would be reimbursed for them.

25 Q. So at the end of the day Mr. Coleman himself was

1 not putting up the money for his travel?

2 A. He has, yes, on a couple of occasions.

3 Q. But then if I did that he would be ultimately

4 reimbursed?

5 A. Correct.

6 Q. So kind of what I'm driving at is that ultimately

7 after the dust settled Mr. Coleman's travel

8 expenses were paid by yourself, correct?

9 A. IHRC. Sometimes I would advance the money at

10 times and I would be reimbursed.

11 Q. So either if Mr. Coleman was taking a flight from

12 Atlanta to San Francisco for example, either

13 yourself or Mr. Coleman would advance the money

14 for the flight originally, correct?

15 A. Correct.

16 Q. And then at some point IHRC would reimburse

17 Mr. Coleman for that flight expense or reimburse

18 yourself for that flight expense if you were the

19 one who funded the money?

20 A. Correct.

21 Q. Same thing with hotel, rental car and other

22 travel expenses?

23 A. Yes.

24 Q. Who at IHRC was in charge of travel

25 reimbursement?

1 to LA, I don't recall.

2 Q. He was going to San Francisco. But we can just

3 say California. For Mr. Coleman transporting the

4 cash to California he was going to be paid a fee,

5 right?

6 A. Correct.

7 Q. How much was that fee?

8 A. I don't recall.

9 Q. Where was that fee going to come from?

10 A. You already asked me, from the donations.

11 Q. So that would have been from that \$252,140 that

12 was seized, correct?

13 A. \$250,000.

14 Q. Yeah, \$252,140?

15 A. The \$2,000 was his money that was --

16 Q. The \$2,000 was his fee for transporting the case?

17 A. No, that was his money, his own personal money,

18 had nothing to do with any of this money.

19 Q. And I'm not asking you about that \$2,000 then.

20 I'm asking you where his fee for transporting the

21 currency that was seized in this case was coming

22 from?

23 A. It would have come from the \$250,000.

24 Q. Had that fee been taken out at that time?

25 A. I have no idea.

1 A. Excuse me, that would have been myself.

2 Q. So --

3 A. If it cost him \$1,100 for a flight I would give

4 the money for the flight, reimburse.

5 Q. So where would you get that money from to

6 reimburse Mr. Coleman?

7 A. Maybe some of the donations or I would have cash

8 or it could be several ways, on my credit card,

9 many ways. It wasn't one specific way.

10 Q. What about the fees that were paid to Mr. Coleman

11 and other couriers to transport cash, where did

12 that money come from?

13 A. Out of the donations.

14 Q. In the instant case with the \$252,140 in U.S.

15 currency was any portion of that meant as a fee

16 to Mr. Coleman for transporting the currency?

17 A. I think he never got compensated. I think it was

18 \$250,000 and he had \$2,000 of his own money that

19 you guys took from him.

20 Q. And my question is for Mr. Coleman's fee for --

21 let me back up.

22 Mr. Coleman was to be paid a fee for

23 transporting the \$252,140 in cash from Atlanta to

24 San Francisco, correct?

25 A. Correct. Was he going to San Francisco or going

1 Q. You don't know whether Mr. Coleman had taken his

2 cut out of the donations for transporting them or

3 not prior to --

4 A. I don't know, I doubt it. \$252,000 he would have

5 had that money. The \$2,000 was his money before

6 anything happened. Had nothing to do with

7 transporting money.

8 Q. Right and, Mr. Shumake, I'm not asking about his

9 \$2,000. I'm asking you about the fee he was to

10 be paid for transporting the money.

11 And my question is, you don't know

12 whether or not he took that fee for transporting

13 the money out of the \$252,140 prior to showing up

14 at the Atlanta Airport, correct?

15 A. No, I don't know what he would have done, I don't

16 know anything about it.

17 Q. And you don't remember how much that fee would

18 have been, correct?

19 A. No, I don't.

20 Q. What was the \$252,140 to be used for?

21 A. You saw the letter, it says housing, water,

22 healthcare, youth causes.

23 Q. Let's take those in turn. You mentioned housing.

24 Were there any specific housing projects --

25 A. The purpose of developing -- I'm sorry, I didn't

mean to cut you off.

Q. That's okay. Were there any specific projects that -- housing projects that this currency was to be used for?

A. Yes, to develop a housing factory to build low income housing on the continent of Africa.

Q. Where was this housing factory to be located?

A. Tanzania.

Q. So there would be a factory in Tanzania that would produce low income housing, correct?

A. Correct.

Q. What percentage of the \$252,000 that was seized was going to go to that project?

A. A small portion or the major project, about several million dollars.

Q. So was all of the \$252,000 that was seized going to go to that project, like what cut of --

A. I don't have a percentile breakdown if that's what you're trying to ask me.

But I can say that the project was north of a few million dollars to develop the housing project. To do a water well, it would cost us between \$8,000 and \$20,000 to do water wells. That's another specific thing.

I saw in your documentation for youth

causes, books and materials for children that need to study. That could be \$10,000. It's all across the gamut.

Q. Was the housing factory in Tanzania ever built?

A. No, it was never able to be built because you guys took the money.

Q. And you mentioned that was going to be a several million dollar project, correct?

A. Correct.

Q. So you would agree with me that this currency in in this case would not have funded that project alone, correct?

A. No, not that specific amount. It would have taken more capital to do it.

Q. Was any other capital towards that project raised?

A. Yes.

Q. How much capital towards that project was raised?

A. Well, you've got another \$171,000.

Q. Are you referencing money that was seized from the government?

A. Yes.

Q. By the government, sorry?

A. Yes.

Q. Outside of currency that has been seized by the

government has there been any monies raised for that housing factory in Tanzania?

A. No. Well, let me take that back. Not raised, but -- yeah, that's not accurate. I've been funding it myself over time.

Q. So nothing outside, no donations outside of your own personal contributions, correct?

A. I've had a few people contribute that's helped out. I've got some people on the continent that's helping out right now.

Q. How much have their contributions totaled?

A. About \$400,000.

Q. How much have your personal contributions totaled?

A. I don't know.

Q. You don't know how much money you personally have put towards the housing factory in Tanzania?

A. Sent a couple thousand dollars two weeks ago, and I'm in the last process of identifying a warehouse, getting the containers.

So as an example these monies were supposed to be -- part of the monies were supposed to be used for the tariffs and it's been in a port since this time period. Those tariffs are north of \$280,000.

Q. The couple of thousand of dollars that you sent a few weeks ago, how did you send that money?

A. What do you mean how did I send it?

Q. You said you sent it to Africa. How did you send it to Africa?

A. Oh, Wave or whatever you call it.

Q. So you sent it electronically, right?

A. Yeah, I think it was like Wave or -- what else would I have sent it through?

Q. Are you thinking of Zelle?

A. No, you can't send Zelle money there, doesn't work.

Q. Regardless of the specific name, Mr. Shumake, you sent it through some type of electronic transfer, correct?

A. Yeah, I've done it that way, I've given money to people to take over there that were traveling, it's all done across the board.

Q. Has IHRC ever sent money to Africa by courier?

A. Define what you mean by that? The answer would be yes, Darren Coleman has gone to Africa as a courier.

Q. Let me -- let's back up to the 2016 time frame. In 2016 did IHRC ever send currency to Africa by courier?

1 A. Yes, Darren Coleman.  
 2 Q. How much currency did Darren Coleman transport to  
 3 Africa for IHRC?  
 4 A. I don't know the answer to your question.  
 5 Q. Do you have a ballpark of what that was?  
 6 A. No, I don't.  
 7 Q. Was it more than \$10,000?  
 8 A. It was definitely more than \$10,000.  
 9 Q. Was that currency ever declared with Customs?  
 10 A. You don't have to declare monies with Customs  
 11 leaving the country, you declare it when you're  
 12 coming back.  
 13 Q. Has IHRC -- was that money declared with Customs  
 14 in whichever country, I assume Tanzania or Kenya,  
 15 that Mr. Coleman arrived in?  
 16 A. There's zero requirement to declare monies coming  
 17 into another nation unless that nation requires  
 18 it.  
 19 Q. Has IHRC ever declared with any Customs agency  
 20 for any governmental entity currency that it is  
 21 transporting internationally?  
 22 A. It's not required to do that as intergovernmental  
 23 organization. It's a private organization. You  
 24 bypass all that as an intergovernmental  
 25 organization.

1 Q. The federal government might have a disagreement  
 2 with you on that, but that being aside, my  
 3 question is I just want to know whether or not  
 4 any reporting has occurred and my understanding  
 5 of your testimony is that for any currency  
 6 transferring overseas that you've been a part of  
 7 or had knowledge of there has not been any  
 8 reporting, correct?  
 9 A. No.  
 10 Q. And you can't speak to anyone else at IHRC,  
 11 right?  
 12 A. Right, correct.  
 13 Q. You understand that you're here today as IHRC's  
 14 designated representative, correct?  
 15 A. Correct, I understand that part.  
 16 Q. You testified earlier in your personal depo as to  
 17 kind of the facts that led to IHRC's ownership in  
 18 the seized currency which is one of the 30(b)(6)  
 19 dep topics.  
 20 I don't want to waste everyone's time  
 21 like going back through them as you did with  
 22 Mr. Bain-Creed, but I just want to confirm that  
 23 there's nothing from IHRC's standpoint regarding  
 24 its ownership interest in the currency that you  
 25 didn't cover with Mr. Bain-Creed.

1 By law no one is supposed to go through  
 2 your diplomatic pouches without your permission  
 3 and all those things. You violate the Vienna  
 4 Convention by doing so.  
 5 Q. So is the answer to that question no?  
 6 A. You're not supposed to do that.  
 7 Q. Right and so is the answer to that question no,  
 8 IHRC has not?  
 9 A. I can't speak on other officers and  
 10 organizations. I'm just speaking based upon my  
 11 training and my jurisdiction no, I would not have  
 12 notified anyone related to it and by law I'm not  
 13 supposed to.  
 14 Q. Fair enough, so is it fair to say that for any  
 15 currency courier on behalf of IHRC at Robert  
 16 Shumake's direction?  
 17 A. Not Robert Shumake's direction, IHRC. Let's be  
 18 clear in that area, IHRC is an intergovernmental  
 19 organization which would mean that the federal  
 20 government does not have jurisdiction over those  
 21 dollars.  
 22 We're having a discussion right now  
 23 based upon jurisdiction and reality is the IHRC  
 24 is an intergovernmental like the United Nations.  
 25 They're just like the United Nations.

1 So just quickly, this money was  
 2 received as donations, correct?  
 3 A. These monies, yeah, they were in my possession  
 4 for the benefit of IHRC which of course I never  
 5 had an opportunity to transfer those dollars to  
 6 the IHRC.  
 7 Q. And a portion of that money came at -- was given  
 8 to you in a bag at the Ritz Carlton, correct?  
 9 A. Correct.  
 10 Q. And then a portion of that money you had in your  
 11 possession before the representative from YSL  
 12 Group gave you that sum at the Ritz Carlton,  
 13 correct?  
 14 A. Correct.  
 15 Q. And then just real quick for the record, what  
 16 source did that money come from?  
 17 A. According to them, basketball games.  
 18 Q. The representatives that came to the hotel were  
 19 representatives of Young Thug and YSL, correct?  
 20 A. Correct.  
 21 Q. And they gave you a sum of money as donations to  
 22 IHRC, correct?  
 23 A. Correct.  
 24 Q. And then you also got the money -- you also got a  
 25 portion of the money from another individual,

1 right?

2 A. Correct.

3 Q. And that individual's name is?

4 A. John Goldstein.

5 Q. And Mr. Goldstein is associated with Stax

6 Entertainment, correct?

7 A. Correct.

8 Q. And that money was raised from bingo proceeds?

9 A. I believe so, yes.

10 Q. And then there's no other sources of the currency

11 other than those two, correct?

12 A. To the best of my knowledge, no.

13 Q. And at some point either yourself or Mr. Coleman

14 combined the money and that is what Mr. Coleman

15 was taking through the airport in Atlanta, right?

16 A. Correct.

17 Q. Who made the decision as to how to package the

18 money?

19 A. I don't know the answer to that question.

20 Q. Is the IHRC's humanitarian mission -- that's a

21 term that's been used in your answer, in IHRC's

22 answer -- is that a separate component of IHRC?

23 A. What do you mean, the humanitarian work? The

24 IHRC deals with human rights, humanitarian

25 causes.

1 40 of them, UNICEF, UNEP.

2 Q. The IHRC Trust Fund, IHRC Relief Trust Fund and

3 the IHRC Humanitarian Mission would be controlled

4 by IHRC, correct?

5 A. Correct.

6 Q. Do you know how much IHRC raised worldwide in

7 2015?

8 A. No. I do not.

9 Q. What about 2016?

10 A. I do not.

11 Q. 2017?

12 A. I do not.

13 Q. Any other year?

14 A. No. We're an intergovernmental agency, so I

15 wouldn't know.

16 MR. JOHNSON: Let's take five minutes,

17 I might be about done. Let me look through my

18 notes.

19 (A recess was taken).

20 BY MR. JOHNSON:

21 Q. A couple of questions to wrap up, Mr. Shumake.

22 Who at IHRC would have to approve using

23 charitable donations to satisfy Robert Shumake's

24 personal tax liability?

25 A. I'm not sure I understand that question.

1 It's not a charitable organization, but

2 it does do charitable work.

3 Q. Let's look at IHRC's answer. This will be

4 Exhibit 10.

5 DEPOSITION EXHIBIT 10

6 answer of IHRC

7 WAS MARKED FOR IDENTIFICATION.

8 Q. If you will turn to Page 8 of this document for

9 me, Mr. Shumake. If you will look at the very

10 last paragraph which is numbered Paragraph 10, it

11 says, "As the Ambassador and Head of Mission for

12 the IHRC Humanitarian Mission, Ambassador Shumake

13 acts on their behalf" and "IHRC Humanitarian

14 Mission" is capitalized.

15 My question is, is this something that

16 is different than IHRC generally?

17 A. Yes.

18 Q. So what is the IHRC Humanitarian Mission?

19 A. The work that I discussed that I was doing.

20 Q. This is not an organization independent in and of

21 itself, correct?

22 A. No, it is not, it's just a wing of the IHRC.

23 Q. What about IHRC Relief Trust Fund?

24 A. It's another wing underneath the IHRC, no

25 different than the United Nations may have 30 or

1 Q. Sure. One of the things that has been proposed

2 is that the seized currency be used to satisfy

3 your personal tax liability with the IRS, do you

4 understand that?

5 A. Sure. You would talk to -- the independent party

6 is the general counsel for IHRC, attorney Quasir

7 Jan.

8 Q. And why would Mr. Jan be involved in that

9 approval?

10 A. He's independent, he's the attorney for the IHRC.

11 Q. What do you mean by he's independent?

12 A. He's the lawyer, he has personal knowledge of the

13 paying for completing the projects. So this

14 money was supposed to go towards the projects and

15 never got done.

16 I on my own went out and did it, some

17 of it I did personally, some of them I raised.

18 He's aware of it and I think that he would be the

19 person to do that.

20 He's the only sworn person that's there

21 right now is the lawyer.

22 Q. Is it your testimony then that the only two

23 people at IHRC right now are yourself and

24 Mr. Jan?

25 A. There's some other -- the ambassadors are still

1 there, they're still in position.

2 Q. These ambassadors that are still there, can you

3 name one?

4 A. No, I can't, I'm foggy right now.

5 Q. In terms of the funds that you have put towards

6 the project, do you have any documentation of

7 that?

8 A. I do.

9 Q. What form would that documentation be?

10 A. What do you mean "form", invoices or --

11 Q. Would it be invoices, would it be bank statements

12 like --

13 A. Invoices.

14 Q. Would those payments also be reflected in your

15 bank statements?

16 A. No.

17 Q. Why not?

18 A. What do you mean? It's cash, I don't -- we keep

19 going back to bank statements.

20 Q. Sure, so all of the funds that you put towards

21 the factory project in Tanzania were in cash?

22 A. Not all of them. Some of them were monies that I

23 raised.

24 Q. Was the money that you raised in cash?

25 A. Other individuals that would put something

1 A. Right after my appointment.

2 Q. You've spoken with them --

3 A. Almost two years ago.

4 Q. Anytime since then?

5 A. No.

6 MR. JOHNSON: I'll pass the witness.

7 I've passed, if you're there.

8 MR. MICHAEL: Are you finished?

9 MR. JOHNSON: Yes.

10 MR. MICHAEL: I have no questions.

11 THE REPORTER: Okay, Ben or Seth,

12 you're ordering I assume?

13 MR. BAIN-CREED: Yes, we are, just

14 electronic.

15 THE REPORTER: David, same for you?

16 MR. MICHAEL: Same thing for me.

17 THE REPORTER: All right, folks, thank

18 you very much.

19 (The deposition was concluded at 4:39 p.m.,

20 signature of the witness was not requested by

21 counsel for the respective parties hereto)

22

23

24

25

1 towards it in cash.

2 Q. So the monies you raised and your personal funds

3 that you put towards the factory in Tanzania, all

4 that was in cash, correct?

5 A. Pretty much. There were some electronic

6 invoices, I'm sure there are some.

7 Q. Who would those electronic transfers have been

8 to?

9 A. Contractors over on the continent.

10 Q. Do you know how many contractors on the continent

11 were paid electronically?

12 A. No, I don't, I don't.

13 Q. Who else at IHRC other than yourself knows that

14 you're testifying here today as IHRC's corporate

15 representative?

16 A. The attorney Quasir Jan.

17 Q. Anyone else?

18 A. No, there's -- I'm the head of the organization.

19 Everyone else I have -- what do you call it --

20 fired.

21 Q. Since becoming world chairman have you spoken

22 with any of IHRC's ambassadors?

23 A. A couple of them. I just don't know their names,

24 it escapes me.

25 Q. When would you have spoken with then?

1 CERTIFICATE OF NOTARY

2

3 STATE OF MICHIGAN )

4 ) SS

5 COUNTY OF WAYNE )

6 I, DALE E. ROSE, Certified Shorthand

7 Reporter, a Notary Public in and for the above

8 county and state, do hereby certify that the

9 above deposition was taken before me at the time

10 and place hereinbefore set forth; that the

11 witness was by me first duly sworn to testify to

12 the truth, and nothing but the truth, that the

13 foregoing questions asked and answers made by the

14 witness were duly recorded by me stenographically

15 and reduced to computer transcription; that this

16 is a true, full and correct transcript of my

17 stenographic notes so taken; and that I am not

18 related to, nor of counsel to either party nor

19 interested in the event of this cause.

20

21 \_\_\_\_\_

22 DALE E. ROSE CSR-0087

23 Notary Public,

24 Wayne County, Michigan

25 My Commission expires: 7-15-24

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# International Human Rights Commission

La Commission Internationale des Droits de l'Homme



*Because what we do today, we do for Generatio*

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## IMPORTANT NOTICE

IHRC HQ

I like to inform you that: **Mr. Robert Shumake** do not belong to our organization. IHRC on the American Region. He never received authorization from the organization to represent the IHRC. He did not receive an appointment as an IHRC member. The person authorized to sign the nomination documents in the IHRC is the Secretary General of IHRC Sir Rafal Marcin Wasik.

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EXHIBIT  
4



USA001528



International  
**Human Rights Commission**  
La Commission Internationale des Droits de l'homme

Via Hand Delivery

June 24, 2016

Attn: Darren Coleman  
Director of Business Development  
Honorary Consul General Republic of Botswana

**RE: Confidential IHRC Diplomatic Communication  
Cash Transportation and Deposit Direction Letter**

Dear Mr. Coleman:

You are being entrusted with up to One Hundred Fifty-Thousand (\$150,000.00) Dollars, in cash, as Designated Agent pursuant to your appointment as Business Development Officer to the Office of International Human Rights Commission.

The \$150,000.00 in cash is of legal origin and is being transported and utilized for purposes of cash deposit to fund housing development, health care, water purification, youth causes and other philanthropic projects on behalf of the International Human Rights Commission throughout Africa and the Caribbean markets. As you are aware, cash deposits are not uncommon for purposes of infrastructure investment on the African Continent.

Please be advised that this is a confidential matter and our projects and contacts are of a proprietary nature. Your assignment may not be disclosed or disseminated to anyone without the expressed written consent of this office.

If you have any questions, please contact my office at (313) 942-6576 or General Counsel Natalie King, Esq. at (248) 943-9244.

Sincerely,

H.E. R.S. Shumake  
Ambassador at Large  
International Human Rights Commission  
Americas, African Union, and United Nations Designee



[www.ihrchq.org](http://www.ihrchq.org), [info@ihrchq.org](mailto:info@ihrchq.org)

EXHIBIT

5

USA000099

1 DAVID M. MICHAEL, CSBN 74031  
2 EDWARD M. BURCH, CSBN 255470  
3 LAW OFFICES OF MICHAEL & BURCH LLP  
4 One Sansome Street, Suite 3500  
5 San Francisco, CA 94104  
6 Telephone: (415) 946-8996  
7 Facsimile: (877) 538-6220  
8 E-mail: david@michaelburchlaw.com

9 Attorneys for Claimant ROBERT SHUMAKE

10 UNITED STATES DISTRICT COURT  
11 WESTERN DISTRICT OF NORTH CAROLINA  
12 CHARLOTTE DIVISION

13 UNITED STATES OF AMERICA,

14 Plaintiff,

CIVIL NO. 3;18 CV 646

15 v.

CLAIMANT ROBERT  
SHUMAKE'S RESPONSE TO  
PLAINTIFF'S FIRST SET OF  
INTERROGATORIES

16 APPROXIMATELY \$252,140.00 IN US  
17 CURRENCY SEIZED FROM DARREN  
18 LENNARD COLEMAN ON JUNE 27, 2016 AT  
19 CHARLOTTE-DOUGLAS INTERNATIONAL  
20 AIRPORT,

21 Defendant.

22 INTERNATIONAL HUMAN RIGHTS  
23 COMMISSION,

24 Claimant.

25 REQUESTING PARTY: Plaintiff UNITED STATES OF AMERICA  
26 RESPONDING PARTY: Claimant ROBERT SHUMAKE  
27 SET NO: FIRST SET OF INTERROGATORIES

PRELIMINARY STATEMENT

1. Claimant has not completed his investigation of the facts, witnesses, or documents relating to this case, nor has Claimant completed discovery in this action, including the receipt

EXHIBIT

6

1 from plaintiff of documents and records, nor has Claimant completed an analysis of all available  
2 data. Furthermore, Claimant has not completed any preparations for trial. Accordingly, the  
3 responses herein are given without prejudice to Claimant's right to provide further responses,  
4 which Claimant may subsequently discover, or which Claimant will obtain from plaintiff or may  
5 obtain elsewhere, or which may be contained in Claimant's possessions but not determined to be  
6 relevant at this time. Claimant reserves his right to alter, amend, supplement, or otherwise  
7 modify these responses if and when additional information is known or obtained.

8 2. The responses are given herein without prejudice to Claimant's right to present  
9 information which may hereafter be discovered during the course of continued discovery and  
10 investigation by Claimant. These responses are made without prejudice to Claimant's right to  
11 produce any evidence which may have been omitted from this response and only subsequently  
12 discovered because of oversight, inadvertence, and/or good faith error, or a mistake, or which  
13 may have been known to Claimant or in Claimant's possession, but not considered at the time of  
14 these responses to be relevant to this case.

15 3. Claimant, ROBERT SHUMAKE, objects to all definitions, instructions, and  
16 terms, to the extent that they purport to impose any different or additional obligations beyond  
17 those required by the Federal Rules of Civil Procedure or any other rules that may apply to these  
18 proceedings.

19 4. Claimant, ROBERT SHUMAKE, objects to each request to the extent that it  
20 seeks information protected by the attorney/client privilege, the attorney work product doctrine,  
21 or any other applicable privilege or immunity.

22 5. Claimant, ROBERT SHUMAKE, objects to each request to the extent it requires  
23 a violation of any individual's right to privacy and/or the right to be free from unreasonable  
24 searches and seizures under any applicable state, federal, or constitutional provisions or laws,  
25 including the Fourth Amendments to the United States Constitution.

26 6. Claimant, ROBERT SHUMAKE, objects to each request to extent that it seeks  
27 the disclosure of information exempt from disclosure under any applicable evidentiary, statutory,  
or common-law privilege.

1           7.       Claimant, ROBERT SHUMAKE, objects to each request to the extent that it calls  
2 for information outside of the time period relevant to this action.

3           Subject to, and without waiving the foregoing general objections and statements,  
4 Claimant, ROBERT SHUMAKE, hereby responds to Plaintiff's First Set of Interrogatories as  
5 follows:

6       **INTERROGATORY NO. 1:**

7           In your claim dated December 31, 2018, you state under penalty of perjury that you have  
8 an ownership and possessory interest in the \$252,140.00 at issue in this case (the "Seized  
9 Currency"). Please describe the nature of your ownership interest in the Seized Currency.

10       **RESPONSE TO INTERROGATORY NO. 1:**

11           The currency had been collected as donations during an International Human Rights  
12 Commission (IHRC) fundraiser by me the day before the seizure at the Ritz-Carlton in Atlanta,  
13 GA, where I had been staying. I provided Claimant Coleman, as authorized agent, with an  
14 official direction letter to explain his transportation of the currency for the International Human  
15 Rights Commission (IHRC) and the purpose for its transportation. When the letter was written,  
16 the amount of currency that was to be produced and transported was estimated to be  
17 \$150,000.00; however, we were able to produce \$252,140.00 by June 27, 2016, the date for  
18 transportation. Both myself and Claimant IHRC have an ownership interest in the seized  
19 currency. There is no talismanic rule or definition that distinguishes that ownership.

20       **INTERROGATORY NO. 2:**

21           Describe whether you contend that you own the Seized Currency or whether Claimant  
22 IHRC owns the Seized Currency.

23       **RESPONSE TO INTERROGATORY NO. 2:**

24           Both myself and Claimant IHRC have an ownership interest in the seized currency.  
25 There is no talismanic rule or definition that distinguishes that ownership.

26       **INTERROGATORY NO. 3:**

27           Please state in detail the circumstances in which you acquired your possessory or  
ownership interest in the Seized Currency, including: (1) the date, time, and place in which you

1 acquired the currency; (2) the reason you acquired the currency; (3) the manner in which the  
2 currency was delivered to your possession or ownership; (4) the identity of the person(s) from  
3 whom you acquired the currency; and (5) all persons who were present when you obtained the  
4 currency.

5 **RESPONSE TO INTERROGATORY NO. 3:**

6 All this information is set out in the Abady Law Firm, P.C. letters of November 29, 2016,  
7 August 24, 2017, and December 13, 2017, all of which are again provided in response to the  
8 government's document request. Furthermore, the government has identified those persons from  
9 whom the currency was acquired and has previously interviewed them.

10 **INTERROGATORY NO. 4:**

11 Identify by name, address and telephone number each person who attended the  
12 "fundraiser" in which the Seized Currency was allegedly raised.

13 **RESPONSE TO INTERROGATORY NO. 4:**

14 Please see Answer to Interrogatory No. 3.

15 **INTERROGATORY NO. 5:**

16 Identify any business, association, or commercial enterprise related to the growth, sale, or  
17 purchase of marijuana or cannabis that you have any involvement in, investment in, association  
18 with, or any role whatsoever in.

19 **RESPONSE TO INTERROGATORY NO. 5:**

20 Please see Preliminary Statement the Objections stated therein, all incorporated herein.

21 **Objection:** This request requires production of information that is neither relevant nor  
22 likely to lead to the discovery of relevant evidence.

23 **INTERROGATORY NO. 6:**

24 Identify by name, address and telephone number each person who has transported cash at  
25 your behest since January 1, 2015.

26 **RESPONSE TO INTERROGATORY NO. 6:**

27 Daniel Flint, c/o Craig Harbaugh, 321 East 2d Street, Los Angeles, CA 90012 in *U.S. v.*

1 \$148,145 in U.S. Currency, Case No. CV 18-670, US District Court Central District of  
2 California. Michigan Attorney Douglas Hampton, on August 22, 2016, in *IHRC v. US Customs*  
3 *and Border Protection, et. al*, Case No. 18-CV-0065, US District Court, Northern District of  
4 Georgia. Abdul Rahman, Michigan real estate broker, stopped either in late 2015 or early 2016  
5 in Washington, DC and California with a sum of monies on behalf of myself for the purchase of  
6 real estate in California, (approximately \$100,000). The money was not seized.

7 All this requested information is well known to the government as all three matters were  
8 either fully litigated both administratively and judicially or fully investigated.

9 **INTERROGATORY NO. 7:**

10 Describe in detail each time that Claimant Coleman has transported cash for you,  
11 including the amount of cash transported, the dates the cash was transported, the route of the  
12 transportation, and the amount that Coleman was compensated for the transportation of cash.

13 **RESPONSE TO INTERROGATORY NO. 7:**

14 Only this one time.

15 **INTERROGATORY NO. 8:**

16 Describe in detail each time since January 1, 2015 that any individual has  
17 transported cash for you, including the amount of cash transported, the dates the cash was  
18 transported, the route of the transportation, and the amount that such individual was compensated  
19 for the transportation of cash

20 **RESPONSE TO INTERROGATORY NO. 8:**

21 Please see Response to Interrogatory No. 6, above, incorporated herein.

22 **INTERROGATORY NO. 9:**

23 Describe in detail each time you have either transported, directed or supervised the  
24 transportation of, or arranged for the transportation of cash for IHRC, including the amount of  
25 cash transported, the dates the cash was transported, the route of the transportation, and the  
26 amount paid to any courier for the transportation of cash.

27 **RESPONSE TO INTERROGATORY NO. 9:**

1       **Objection:** This request requires production of information that is neither relevant nor  
2 likely to lead to the discovery of relevant evidence.

3       **Objection:** This request calls for information outside of the time period relevant to this  
4 action.

5       **Objection:** This request is overly broad, unduly burdensome, or not reasonably  
6 calculated to lead to the discovery of admissible evidence.

7       **INTERROGATORY NO. 10:**

8           Describe whether you have any role or involvement in a licensed or registered money  
9 transmitting business, including but not limited to, ownership of, control over, or authorization to  
10 act as an agent for such business.

11       **RESPONSE TO INTERROGATORY NO. 10:**

12           None.

13       **INTERROGATORY NO. 11:**

14           Explain your association or relationship with Claimant Darren Coleman, including but  
15 not limited to details of when that association/relationship began, the circumstances in which it  
16 began, the nature of the association/relationship, if the association/relationship is going, or if  
17 terminated, the time and circumstances the association/relationship ended.

18       **RESPONSE TO INTERROGATORY NO. 11:**

19           **Objection:** Claimant Darren Coleman has worked with me for over 25 years. He is the  
20 executive director of a nonprofit and member of the Botswana Chamber of Commerce.

21       **INTERROGATORY NO. 12:**

22           Explain your association or relationship Claimant IHRC, including but not limited to  
23 details of when that association/relationship began, the circumstances in which it began, the  
24 nature of the association/relationship, if the association/relationship is going, or if terminated, the  
25 time and circumstances the association/relationship ended.

26       **RESPONSE TO INTERROGATORY NO. 12:**

1 All this information is set out in the 125-page document provided in response to the  
2 government's document request.

3 All this information is additionally set out in the Abady Law Firm, P.C. letters of  
4 November 29, 2016, August 24, 2017, and December 13, 2017, all of which are again provided  
5 in response to the government's document request.

6 **INTERROGATORY NO. 13:**

7 State whether law enforcement has ever seized currency from you, or a courier acting on  
8 behalf of you or IHRC, on any other occasion. If so, state the date and place of such seizure, the  
9 circumstances of the seizure, the amount of currency seized, the caption and identifying  
10 information of any proceeding that resulted from the seizure and, if applicable, the  
11 court where such proceeding was filed, and the disposition of the seizure (i.e., whether you  
12 recovered the currency, defaulted or did not contest the seizure, or litigated but failed to recover  
13 the currency).

14 **RESPONSE TO INTERROGATORY NO. 13:**

15 All the information requested is set out in *U.S. v. \$148,145 in U.S. Currency*, Case No.  
16 CV 18-670, US District Court Central District of California and *IHRC v. US Customs and*  
17 *Border Protection, et. al, (\$170,130)*, Case No. 18-CV-0065, US District Court, Northern District  
18 of Georgia. There are no other seizures.

19 **INTERROGATORY NO. 14:**

20 Please state if you have ever been a party, either plaintiff, claimant, petitioner, defendant,  
21 or respondent, in a lawsuit or any other type of legal or administrative proceeding other than the  
22 present matter, and if so, whether you were the plaintiff, claimant, petitioner, defendant, or  
23 respondent, the nature of the action, and the date and court or administrative body in which such  
24 action was filed.

25 **RESPONSE TO INTERROGATORY NO. 14:**

26 **Objection:** This request requires production of information that is neither relevant nor  
27 likely to lead to the discovery of relevant evidence.

**Objection:** This request calls for information outside of the time period relevant to this action.

**Objection:** This request is overly broad, unduly burdensome, or not reasonably calculated to lead to the discovery of admissible evidence.

**INTERROGATORY NO. 15:**

Identify every instance in which you have been arrested, charged, indicted, convicted, or plead nolo contendere for any offense or violation, including misdemeanors and felonies, and for each such instance, state the date of its occurrence, describe the offense for which you were charged, state the jurisdiction (e.g. type of court and location) of the matter, describe the disposition of the matter (whether arrested, charged, indicted, convicted or nolo contendere; and any punishment issued); and state the dates and places of any incarceration, probation, or parole.

**RESPONSE TO INTERROGATORY NO. 15:**

**Objection:** This request requires production of information that is neither relevant nor likely to lead to the discovery of relevant evidence.

Without waiving said objection, attached to my production of document is the 6-page criminal docket in *People v. Shumake*, Case No. CR F 16-0003572-004, County of Shasta, CA, in which I was acquitted.

In addition, I have never been convicted of a felony.

Respectfully submitted,

Dated: 17 December 2019

*s/David M. Michael*  
DAVID M. MICHAEL  
EDWARD M. BURCH  
LAW OFFICE OF MICHAEL & BURCH, LLP  
One Sansome Street, Suite 3500  
San Francisco, CA 94104  
Telephone: (415) 946-8996  
E-Mail: [david@michaelburchlaw.com](mailto:david@michaelburchlaw.com)

Attorneys for Claimant ROBERT SHUMAKE

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Dated: 17 December 2019

*s David M. Michael*  
DAVID M. MICHAEL

I hereby certify that, on 18 December 2019, I caused the foregoing to be served by mail to the following:

AUSA Benjamin Bain-Creed  
Florida Bar # 0021436  
Assistant United States Attorney  
Suite 1650, Carillon Building  
227 West Trade Street  
Charlotte, North Carolina 28202  
Telephone: (704) 344-6222  
Email: [benjamin.bain-creed@usdoj.gov](mailto:benjamin.bain-creed@usdoj.gov)

*s David M. Michael*  
DAVID M. MICHAEL

1 **DAVID M. MICHAEL, CSBN 74031**  
2 **EDWARD M. BURCH, CSBN 255470**  
3 **LAW OFFICES OF MICHAEL & BURCH LLP**  
4 **One Sansome Street, Suite 3500**  
5 **San Francisco, CA 94104**  
6 **Telephone: (415) 946-8996**  
7 **Facsimile: (877) 538-6220**  
8 **E-mail: david@michaelburchlaw.com**

9 **Attorneys for Claimant**  
10 **INTERNATIONAL HUMAN RIGHTS COMMISSION**

11 **UNITED STATES DISTRICT COURT**  
12 **WESTERN DISTRICT OF NORTH CAROLINA**  
13 **CHARLOTTE DIVISION**

14 **UNITED STATES OF AMERICA,**

15 **Plaintiff,**

16 **CIVIL NO. 3:18 CV 646**

17 **v.**

18 **CLAIMANT INTERNATIONAL**  
19 **HUMAN RIGHTS**  
20 **COMMISSION'S RESPONSE TO**  
21 **PLAINTFF'S FIRST SET OF**  
22 **INTERROGATORIES**

23 **APPROXIMATELY \$252,140.00 IN US**  
24 **CURRENCY SEIZED FROM DARREN**  
25 **LENNARD COLEMAN ON JUNE 27, 2016 AT**  
26 **CHARLOTTE-DOUGLAS INTERNATIONAL**  
27 **AIRPORT,**

28 **Defendant.**

\_\_\_\_\_  
19 **INTERNATIONAL HUMAN RIGHTS**  
20 **COMMISSION,**

21 **Claimant.**  
22 \_\_\_\_\_

23 **REQUESTING PARTY: Plaintiff UNITED STATES OF AMERICA**

24 **RESPONDING PARTY: Claimant INTERNATIONAL HUMAN RIGHTS COMMISSION**

25 **SET NO: FIRST SET OF INTERROGATORIES**

1     **PRELIMINARY STATEMENT**

2           1.     Claimant has not completed its investigation of the facts, witnesses, or documents  
3 relating to this case, nor has Claimant completed discovery in this action, including the receipt  
4 from plaintiff of documents and records, nor has Claimant completed an analysis of all  
5 available data. Furthermore, Claimant has not completed any preparations for trial.  
6 Accordingly, the responses herein are given without prejudice to Claimant's right to provide  
7 further responses, which Claimant may subsequently discover, or which Claimant will obtain  
8 from plaintiff or may obtain elsewhere, or which may be contained in Claimant's possessions  
9 but not determined to be relevant at this time. Claimant reserves its right to alter, amend,  
10 supplement, or otherwise modify these responses if and when additional information is known  
11 or obtained.

12           2.     The responses are given herein without prejudice to Claimant's right to present  
13 information which may hereafter be discovered during the course of continued discovery and  
14 investigation by Claimant. These responses are made without prejudice to Claimant's right to  
15 produce any evidence which may have been omitted from its response and only subsequently  
16 discovered because of oversight, inadvertence, and/or good faith error, or a mistake, or which  
17 may have been known to Claimant or in Claimant's possession, but not considered at the time  
18 of these responses to be relevant to its case.

19           3.     Claimant, INTERNATIONAL HUMAN RIGHTS COMMISSION, objects to all  
20 definitions, instructions, and terms, to the extent that they purport to impose any different or  
21 additional obligations beyond those required by the Federal Rules of Civil Procedure or any  
22 other special rules that may apply to these proceedings.

23           4.     Claimant, INTERNATIONAL HUMAN RIGHTS COMMISSION, objects to  
24 each request to the extent that it seeks information protected by the attorney/client privilege,  
25 the attorney work product doctrine, or any other applicable privilege or immunity.

26           5.     Claimant, INTERNATIONAL HUMAN RIGHTS COMMISSION, objects to  
27 each request to the extent it requires a violation of any individual's right to privacy and/or the  
28 right to be free from unreasonable searches and seizures under any applicable state, federal, or

1 constitutional provisions or laws, including the Fourth Amendments to the United States  
2 Constitution.

3 6. Claimant, INTERNATIONAL HUMAN RIGHTS COMMISSION, objects to  
4 each request to extent that it seeks the disclosure of information exempt from disclosure under  
5 any applicable evidentiary, statutory, or common-law privilege.

6 7. Claimant, INTERNATIONAL HUMAN RIGHTS COMMISSION, objects to  
7 each request to the extent that it calls for information outside of the time period relevant to this  
8 action.

9 Subject to, and without waiving the foregoing general objections and statements,  
10 Claimant, INTERNATIONAL HUMAN RIGHTS COMMISSION, hereby responds to  
11 Plaintiff's First Set of Interrogatories as follows:

12 **INTERROGATORY NO. 1:**

13 State your current organization name, officers and/or board members, date of  
14 formation, places of operation, articles of incorporation or formation, current addresses and  
15 addresses for the last five (5) years including but not limited to website domains and physical  
16 locations. For each address, please list the inclusive months and years you operated at each  
17 address.

18 **RESPONSE TO INTERROGATORY NO. 1:**

19 All such relevant information is set forth in the official website for Claimant  
20 INTERNATIONAL HUMAN RIGHTS COMMISSION - <http://www.ihrcheadquarters.org>.

21 **INTERROGATORY NO. 2:**

22 In your claim dated December 31, 2018, you state under penalty of perjury that you have  
23 an ownership and possessory interest in the in the \$252,140.00 at issue in this case (the  
24 "Seized Currency"). Please describe the nature of your ownership interest in the Seized  
25 Currency.

26 **RESPONSE TO INTERROGATORY NO. 2:**

27 The currency had been collected as donations during an International Human Rights  
28 Commission (IHRC) fundraiser by Claimant Robert Shumake the day before the seizure at the

1 Ritz-Carlton in Atlanta, GA, where he had been staying. Claimant Shumake provided  
2 Claimant Coleman, as authorized agent, with an official direction letter to explain his  
3 transportation of the currency for the International Human Rights Commission (IHRC) and the  
4 purpose for its transportation. When the letter was written, the amount of currency that was to  
5 be produced and transported was estimated to be \$150,000.00; however, we were able to  
6 produce \$252,140.00 by June 27, 2016, the date for transportation. Both Claimant Shumake  
7 and Claimant IHRC have an ownership interest in the seized currency. There is no talismanic  
8 rule or definition that distinguishes that ownership.

9 **INTERROGATORY NO. 3:**

10 Please state in detail the circumstances in which you acquired your ownership  
11 interest in Seized Currency, including: (1) the date, time, and place in which you acquired the  
12 currency; (2) the reason you acquired the currency; (3) the manner in which the currency was  
13 delivered to your possession; (4) the identity of the person(s) from whom you acquired  
14 the currency; and (5) identify all persons who were present when you obtained the currency.

15 **RESPONSE TO INTERROGATORY NO. 3:**

16 All this information is set out in the Abady Law Firm, P.C. letters of November 29,  
17 2016, August 24, 2017, and December 13, 2017, all of which are again provided in response to  
18 the government's document request. Furthermore, the government has identified those persons  
19 from whom the currency was acquired and has previously interviewed them.

20 **INTERROGATORY NO. 4:**

21 Describe whether you contend that the IHRC owns the Seized Currency or whether  
22 Robert Shumake and/or Darren Coleman owns the Seized Currency.

23 **RESPONSE TO INTERROGATORY NO. 4:**

24 Both IHRC and Robert Shumake have an ownership interest in the seized currency.  
25 There is no talismanic rule or definition that distinguishes that ownership.

26 **INTERROGATORY NO. 5:**

27 Describe whether Robert Shumake is currently affiliated with IHRC.  
28

1 **RESPONSE TO INTERROGATORY NO. 5:**

2 He is

3 **INTERROGATORY NO. 6:**

4 Describe in detail the nature of Robert Shumake's affiliation with IHRC (past or  
5 present), including when any such affiliation began, the nature of the affiliation, the extent of  
6 any authority for Shumake to act on behalf of IHRC, and the circumstances of any  
7 dissociation with IHRC.

8 **RESPONSE TO INTERROGATORY NO. 6:**

9 All this information is set out in the 125-page document provided in response to the  
10 government's document request.

11 All this information is additionally set out in the Abady Law Firm, P.C. letters of  
12 November 29, 2016, August 24, 2017, and December 13, 2017, all of which are again provided  
13 in response to the government's document request.

14 **INTERROGATORY NO. 7:**

15 Describe in detail who at IHRC-both now and in June of 2016-oversaw, supervised, or  
16 directed any activities by Robert Shumake on behalf of IHRC, and the nature of any such  
17 oversight, supervision, or direction.

18 **RESPONSE TO INTERROGATORY NO. 7:**

19 All this information is set out in the 125-page document provided in response to the  
20 government's document request.

21 **INTERROGATORY NO. 8:** Identify by name, address and telephone number each person  
22 whose purported donations to IHRC comprised the \$252,140.00 at issue, and list the amount  
23 and nature (i.e. by cash, check, etc...) of each donation.

24 **RESPONSE TO INTERROGATORY NO. 8:**

25 All this information is additionally set out in the Abady Law Firm, P.C. letters of  
26 November 29, 2016, August 24, 2017, and December 13, 2017, all of which are again provided  
27 in response to the government's document request.

1 All this information is also set out in the 125-page document provided in response to the  
2 government's document request.

3 **INTERROGATORY NO. 9:**

4 Describe in detail how records of any fundraising-including but not limited to the  
5 collection of cash funds and donations-for IHRC in the United States are collected and  
6 maintained by IHRC.

7 **RESPONSE TO INTERROGATORY NO. 9:**

8 For every donation we issue a donor letter which records the amounts, the date of  
9 donation and who has made the donation. The government has many copies of these kinds of  
10 letters.

11 **INTERROGATORY NO. 10:**

12 Explain why a human rights organization that purportedly raises money to aid  
13 charity efforts in foreign countries deals in large amounts of currency and employs couriers, at  
14 a cost of thousands of dollars per trip, as opposed to depositing purported donations into banks  
15 and executing wire transfers to donees.

16 **RESPONSE TO INTERROGATORY NO. 10:**

17 The people and organizations in countries that we make donations to and provide aid for  
18 mostly do not have the capacity to deal with wire transfers or bank transfers. Our donations  
19 are made in cash.

20 **INTERROGATORY NO. 11:**

21 You assert in your answer that: "There are many American and foreign businesses such  
22 as landlords, property owners, goods suppliers, service providers, and shippers who demand  
23 cash advances and deposits before agreeing to conduct business with the IHRC Humanitarian  
24 Mission and its representatives." Please identify by name, address and telephone number all  
25 businesses that have demanded a cash advance or deposit before agreeing to conduct business  
26 with IHRC from the year 2013 to 2018.

27 **RESPONSE TO INTERROGATORY NO. 11:**

1       **Objection:** This request requires production of information that is neither relevant nor  
2 likely to lead to the discovery of relevant evidence.

3       **Objection:** This request calls for information outside of the time period relevant to this  
4 action.

5       **Objection:** This request is overly broad, unduly burdensome, or not reasonably  
6 calculated to lead to the discovery of admissible evidence.

7       **INTERROGATORY NO. 12:**

8           State whether law enforcement has ever seized currency from a person transporting  
9 currency for IHRC on any other occasion. If so, state the date and place of such seizure, the  
10 circumstances of the seizure, the amount of currency seized, the caption and  
11 identifying information of any proceeding that resulted from the seizure and, if applicable, the  
12 court where such proceeding was filed, and the disposition of the seizure (i.e., whether you  
13 recovered the currency, defaulted or did not contest the seizure, or litigated but failed to  
14 recover the currency).

15       **RESPONSE TO INTERROGATORY NO. 12:**

16           All the information requested is set out in *U.S. v. \$148,145 in U.S. Currency*, Case No.  
17 CV 18-670, US District Court Central District of California and *IHRC v. US Customs and*  
18 *Border Protection, et. al, (\$170,130)*, Case No. 18-CV-0065, US District Court, Northern  
19 District of Georgia. There were no other seizures within the past 5 years.

20       **INTERROGATORY NO. 13:**

21           Identify by name, address and telephone number each person who has any knowledge  
22 that supports any claim or allegation asserted or to be asserted by the IHRC in this litigation  
23 and include a summary of such knowledge.

24       **RESPONSE TO INTERROGATORY NO. 13:**

25           All those identified in this case, in *U.S. v. \$148,145 in U.S. Currency*, Case No. CV 18-  
26 670, US District Court Central District of California and *IHRC v. US Customs and Border*  
27 *Protection, et. al, (\$170,130)*, Case No. 18-CV-0065, US District Court, Northern District of  
28 Georgia.

1 In addition, all those identified in the 125-page document provided in response to the  
2 government's document request and the Abady Law Firm, P.C. letters of November 29, 2016,  
3 August 24, 2017, and December 13, 2017, all of which are provided in response to the  
4 government's document request.

5 **INTERROGATORY NO. 14:**

6 Please state if you have ever been a party, either plaintiff, claimant, petitioner,  
7 defendant, or respondent, in a lawsuit or any other type of legal or administrative proceeding  
8 other than the present matter, and if so, whether you were the plaintiff, claimant, petitioner,  
9 defendant, or respondent, the nature of the action, and the date and court or administrative  
10 body in which such action was filed.

11 **RESPONSE TO INTERROGATORY NO. 14:**

12 See answer to Interrogatory No. 13, above

13 **INTERROGATORY NO. 15:**

14 State the names and addresses of all persons, including IHRC personnel, who were  
15 involved in the preparation of the answers to these interrogatories (except clerical personnel),  
16 and specify the interrogatory numbers each person assisted you with.

17 **RESPONSE TO INTERROGATORY NO. 15:**

18 Attorney David Michael and Claimant Shumake assisted in the preparation of the  
19 answers to these interrogatories.

20 Respectfully submitted,

21 Dated: 18 December 2019

22 s/ David M. Michael  
23 DAVID M. MICHAEL  
24 EDWARD M. BURCH  
25 LAW OFFICE OF MICHAEL & BURCH, LLP  
26 One Sansome Street, Suite 3500  
27 San Francisco, CA 94104  
28 Telephone: (415) 946-8996  
E-Mail: david@michaelburchlaw.com

Attorneys for Claimant INTERNATIONAL  
HUMAN RIGHTS COMMISSION

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**VERIFICATION**

The undersigned declares under penalty of perjury that he is the authorized agent for the INTERNATIONAL HUMAN RIGHTS COMMISSION, a Claimant in the above-entitled matter, that he is authorized to verify the above responses by the INTERNATIONAL HUMAN RIGHTS COMMISSION, that he has read the foregoing CLAIMANT INTERNATIONAL HUMAN RIGHTS COMMISSION'S RESPONSE TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, that he knows the contents thereof, and that the same is true of his own knowledge, except as to those matters which he states on information and belief and, as to those matters, he believes them to be true.

Dated: 18 December 2019



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ROBERT SHUMAKE  
Authorized Agent for INTERNATIONAL  
HUMAN RIGHTS COMMISSION  
Claimant

**CERTIFICATE OF SERVICE**

I hereby certify that, on 18 December 2019, I caused the foregoing to be served by mail to the following:

AUSA Benjamin Bain-Creed  
Florida Bar # 0021436  
Assistant United States Attorney  
Suite 1650, Carillon Building  
227 West Trade Street  
Charlotte, North Carolina 28202  
Telephone: (704) 344-6222  
Email: [benjamin.bain-creed@usdoj.gov](mailto:benjamin.bain-creed@usdoj.gov)

*s David M. Michael*  
DAVID M. MICHAEL

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

UNITED STATES OF AMERICA, )

v. )

APPROXIMATELY \$252,140.00 IN US )  
CURRENCY SEIZED FROM DARREN )  
LENNARD COLEMAN ON JUNE 27, 2016 )  
AT CHARLOTTE-DOUGLAS )  
INTERNATIONAL AIRPORT. )

CIVIL NO. 3:18cv646

**DECLARATION OF CLIFTON C. SEAGROVES**

I, Clifton C. Seagroves, in accordance with 28 U.S.C. § 1746, state as follows:

1. I am the Acting Director of the Office of Foreign Missions, United States Department of State, and in that role I am responsible for overseeing the registration of, and maintaining the official records of, certain diplomatic agents, consular officers, and other employees of foreign governments and international organizations in the United States and its territories, and their family members.

2. The official records of the Department of State, Office of Foreign Missions, contain no record of an organization called the International Human Rights Commission, the International Human Rights Commission - Relief Trust Fund, or the IHRC Humanitarian Mission. Accordingly, the official records of the Department of State, Office of Foreign Missions indicate that the "International Human Rights Commission," including the "International Human Rights Commission - Relief Trust Fund" and the "IHRC Humanitarian Mission" does not enjoy any privileges and immunities in the United States, including with respect to its property and assets. Nor did the "International Human Rights Commission," including the "International Human Rights Commission - Relief Trust Fund" and the "IHRC Humanitarian Mission," enjoy any such privileges and immunities in the United States as of June 27, 2016.

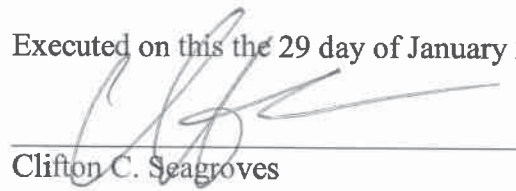
3. The official records of the Department of State, Office of Foreign Missions, contain no record of an individual named Robert S. Shumake being associated with an organization called the International Human Rights Commission. The official records of the Department of State, Office of Foreign Missions, indicate that Robert Samuel Shumake, born July 29, 1968, was previously registered with the Department as an Honorary Consul for the Government of the Republic of Botswana from July 25, 2012, to September 8, 2015, and as an Honorary Consul for the Government of the United Republic of Tanzania from January 11, 2013, to September 8, 2015. Pursuant to the Vienna Convention on Consular Relations (VCCR), Mr. Shumake enjoys immunity from jurisdiction with respect to acts performed in the exercise of his honorary consul functions for the Republic of Botswana and the Government of the United Republic of Tanzania

during the time periods specified above. Mr. Shumake does not enjoy immunity in the United States with respect to any acts undertaken after September 8, 2015, and thus did not enjoy any privileges or immunities as of June 26, 2016.

4. The official records of the Department of State, Office of Foreign Missions, contain no record of an individual named Darren Lennard Coleman being associated with an organization called the International Human Rights Commission, or enjoying privileges and immunities in the United States, or having enjoyed any such privileges or immunities as of June 26, 2016.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this the 29 day of January 2021, in Washington, D.C.



---

Clifton C. Seagroves



United States Department of State

*Office of Foreign Missions*

*Washington, D.C. 20520*


February 6, 2017

REF: 17-147

Re: Darren Leonard Coleman

This is to certify that I, Clifton C. Seagroves, Director (Acting) of the Office of Foreign Missions, United States Department of State, am responsible for overseeing the registration and maintaining the official records of certain diplomatic agents, consular officers and other employees of foreign governments and international organizations in the United States and its territories, and their family members.

The official records of the United States Department of State, Office of Foreign Missions, indicate that Darren Leonard Coleman, born August 9, 1968, was never registered with the Department as a member of a foreign mission and would not have been accorded the associated privileges and immunities.



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Clifton C. Seagroves  
Director (Acting)



United States Department of State

*Office of Foreign Missions*

*Washington, D.C. 20520*

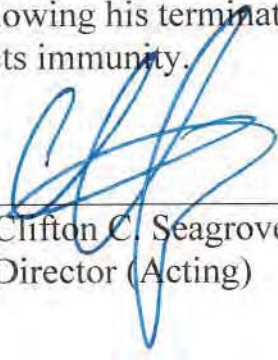
February 6, 2017

REF: 17-148

Re: Robert Samuel Shumake

This is to certify that I, Clifton C. Seagroves, Director (Acting) of the Office of Foreign Missions, United States Department of State, am responsible for overseeing the registration and maintaining the official records of certain diplomatic agents, consular officers and other employees of foreign governments and international organizations in the United States and its territories, and their family members.

The official records of the United States Department of State, Office of Foreign Missions, indicate that Robert Samuel Shumake, born July 29, 1968, was registered with the Department as an Honorary Consul for the Government of the Republic of Botswana from July 25, 2012, to September 8, 2015, and as an Honorary Consul for the Government of the United Republic of Tanzania from January 11, 2013, to September 8, 2015. Following his termination as Honorary Consul, he was no longer accorded official acts immunity.



---

Clifton C. Seagroves  
Director (Acting)



United States Department of State

*Office of Foreign Missions*

*Washington, D.C. 20520*


February 6, 2017

REF: 17-148

Re: Robert Samuel Shumake

This is to certify that I, Clifton C. Seagroves, Director (Acting) of the Office of Foreign Missions, United States Department of State, am responsible for overseeing the registration and maintaining the official records of certain diplomatic agents, consular officers and other employees of foreign governments and international organizations in the United States and its territories, and their family members.

The official records of the United States Department of State, Office of Foreign Missions, indicate that Robert Samuel Shumake, born July 29, 1968, was registered with the Department as an Honorary Consul for the Government of the Republic of Botswana from July 25, 2012, to September 8, 2015, and as an Honorary Consul for the Government of the United Republic of Tanzania from January 11, 2013, to September 8, 2015. Following his termination as Honorary Consul, he was no longer accorded official acts immunity.



---

Clifton C. Seagroves  
Director (Acting)



**United States Department of State**

*Washington, D.C. 20520*


October 9, 2018

REF: 18-1560

Re: Daniel Flint

This is to certify that I, Clifton C. Seagroves, Director (Acting) of the Office of Foreign Missions, United States Department of State, am responsible for overseeing the registration and maintaining the official records of certain diplomatic agents, consular officers and other employees of foreign governments and international organizations in the United States and its territories, and their family members.

The official records of the Department of State, Office of Foreign Missions, indicate that Daniel Flint has never been registered with the Department of State. In addition, there is no indication in the official records of the Department that the International Human Rights Commission, including the International Human Rights Commission – Relief Trust Fund, has privileges and immunities in the United States. As such, the Department of State, Office of Foreign Missions, is not aware of any basis for Daniel Flint to enjoy diplomatic or related privileges and immunities in the United States such as immunity from the criminal or civil jurisdiction of the United States. The Department of State, Office of Foreign Missions, is also not aware of a basis for the use of a diplomatic pouch by either Daniel Flint or by the International Human Rights Commission, including the International Human Rights Commission – Relief Trust Fund.



---

Clifton C. Seagroves  
Director (Acting)  
Office of Foreign Missions

**STATE OF MICHIGAN**  
**6th JUDICIAL CIRCUIT**  
**COUNTY OF OAKLAND**

**\*\*\* AMENDED 01/31/2018 \*\*\***  
**JUDGMENT OF SENTENCE**  
**COMMITMENT TO JAIL**

OAKLAND  
 COUNTY

17-261752-FH



JUDGE JAMES M. ALEXANDER

PEOPLE v SHUMAKE, ROBERT

248-858-5284

ORI: MI-630015J Court Address: 1200 N. Telegraph Rd., Pontiac, MI 48341  
 Police Report No.

THE PEOPLE OF THE STATE OF  
 MICHIGAN

V

Defendant's name, address, and telephone no.

SHUMAKE, ROBERT, SAMUEL, JR.

18530 MACK AVE SUITE 339

GROSSE POINTE FARMS MI 48236

CYN/TCN

SID

DOB

96-15-900877-01

07/29/1968

Prosecuting Attorney Name

Bar No.

NORMAN W. DONKER

P31732

Defendant Attorney Name

Bar No.

DOUGLAS D. HAMPTON

P46378

**THE COURT FINDS:**

1. Defendant plead / found guilty on 12/20/2017 of the crime(s) stated below:

Count	CONVICTED BY			Crime	CHARGE CODE(S)	
	Plea	Court	Jury		MCL citation/PACC Code	
1				FALSE PRETENSES >1,000<20,000	750.2184A	DISMISSED
2				FALSE PRETENSES >1,000<20,000	750.2184A	DISMISSED
3	G			CREDIT SERV VIOLATIONS	445.1823	
4	G			CREDIT SERV VIOLATIONS	445.1823	
5				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
6				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
7				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
8				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
9				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
10				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
11				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
12				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
13				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
14				CREDIT SERV VIOLATIONS	445.1823	DISMISSED
15				CREDIT SERV VIOLATIONS	445.1823	DISMISSED

\*For plea: insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill. For dismissal: insert "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

2. Defendant ☒ represented by an attorney: DOUGLAS D. HAMPTON P46378  
☐ advised of right to counsel and appointed counsel and knowingly, intelligently, and voluntarily waived that right.

☐ 3. Conviction is reportable to the Secretary of State\*\*. Defendant's driver license number is : \_\_\_\_\_

☐ 4. Licensing sanction reportable to State Police\*\*. ☐ Revoked ☐ Suspended ☐ Restricted \_\_\_\_\_

☐ 5. HIV testing and sex offender registration is completed.

☐ 6. Defendant has been fingerprinted according to MCL 28.243.

**IT IS ORDERED:**

☐ 7. Probation is revoked.

8. Defendant is sentenced to jail as follows:

Count	SENTENCE DATE	SENTENCE BEGINS	Probation Time	JAIL Days	CREDIT Days	Other Information
3	01/31/2018	01/31/2018	018M	9	9	
4	01/31/2018	01/31/2018	018M	9	9	

9. Defendant shall pay as follows:

MC 219 (6/05) JUDGMENT OF SENTENCE/ COMMITMENT TO JAIL

STATE OF MICHIGAN  
6th JUDICIAL CIRCUIT  
COUNTY OF OAKLAND

177 2/2/2018 18:23:58 37559  
\*\*\* AMENDED 01/31/2018 \*\*\*  
JUDGMENT OF SENTENCE  
COMMITMENT TO JAIL

CASE NO.  
2017-261752-FH

ORI: MI-630015J Court Address: 1200 N. Telegraph Rd., Pontiac, MI 48341  
Police Report No.

Court telephone no:  
248-858-5284

THE PEOPLE OF THE STATE OF  
MICHIGAN

V

Defendant's name, address, and telephone no.

SHUMAKE, ROBERT, SAMUEL, JR  
18530 MACK AVE SUITE 339  
GROSSE POINTE FARMS MI 48236

CYN/TCN	SID	DOB
96-15-900877-01		07/29/1968

Prosecuting Attorney Name	Bar No.
NORMAN W. DONKER	P31732

Defendant Attorney Name	Bar No.
DOUGLAS D. HAMPTON	P46378

RESTITUTION: \$28,970.33. PAY \$075.00 ASSESSMENT FOR THE CRIME VICTIM RIGHTS FUND.  
SUPERVISION FEES: \$1,800.00 AT \$100.00 A MONTH. COSTS: \$500.00. FINE: \$1,000.00. \$100.00  
FOR STATE MINIMUM COSTS.

Fines, Costs, and Fees not paid within 56 days of the date of this judgment are subject to a 20% late penalty on the amount owed.

- ☒ 10. Defendant shall be placed on probation for (see above) and abide by the terms of probation.
- ☐ 11. Defendant shall complete the following rehabilitative services.  
☐ Alcohol Highway Safety Education ☐ Treatment (☐ outpatient, ☐ inpatient, ☐ residential, ☐ mental health.)  
☐ Specify: \_\_\_\_\_
- ☐ 12. The vehicle used in the offense shall be immobilized or forfeited. (See separate order.)
- ☐ 13. The concealed pistol license shall be ☐ suspend for \_\_\_\_\_ days ☐ permanently revoke the concealed weapon license, permit number \_\_\_\_\_, issued by \_\_\_\_\_ County.

14. Other:

MAINTAIN AND/OR SEEK EMPLOYMENT AS DIRECTED BY P.O. MUST PERFORM 100 HOURS COMMUNITY SERVICE SHALL NOT USE, PURCHASE OR POSSESS ANY ALCOHOLIC BEVERAGE OR ENTER ESTABLISHMENTS THAT DISPENSE THEM. SHALL SUBMIT TO ALCOHOL TESTING AS DIRECTED BY P.O. SHALL SUBMIT TO DRUG TESTING AS DIRECTED BY P.O. SHALL NOT USE ANY CONTROLLED SUBSTANCE W/O PRESCRIPTION. NO ASSAULTIVE OR THREATENING BEHAVIOR. NOT USE OR POSSESS ANY FIREARM OR OTHER DEADLY WEAPON. NO CONTACT WITH VICTIM(S). PRESERVE ALL FINES & FEES PURSUANT TO STATUTE. THE DEFENDANT SHALL PAY RESTITUTION, CRIME VICTIM FEES, COSTS, ATTORNEY FEES AND/OR FINES OWING TO THE OAKLAND COUNTY REIMBURSEMENT. (4.2) YOU MUST NOT LEAVE THE STATE OF MICHIGAN FOR ANY REASON EXCEPT IN RELATION TO YOUR CRIMINAL MATTER PENDING IN CALIFORNIA. YOU ARE NOT TO LEAVE THE UNITED STATES FOR ANY REASON. (6.3) YOU MUST NOT WORK IN A POSITION WHERE YOU HAVE DIRECT CONTROL OVER, OR ACCESS TO, ANOTHER PERSON'S MONEY. MAY NOT CHANGE RESIDENCE WITHOUT ADVISING P.O. MAY NOT ASSOCIATE WITH ANYONE WHO HAS FELONY RECORD. AMENDED TO CORRECT SENTENCING. DEFENDANT MUST SURRENDER U.S. PASSPORT TO OAKLAND COUNTY CLERK WITHIN 24 HOURS.

STATE OF MICHIGAN  
6th JUDICIAL CIRCUIT  
COUNTY OF OAKLAND

\*\*\* AMENDED 01/31/2018 \*\*\*  
JUDGMENT OF SENTENCE  
COMMITMENT TO JAIL

CASE NO.  
2017-261752-FH

ORI: MI-630015J Court Address: 1200 N. Telegraph Rd., Pontiac, MI 48341  
Police Report No.

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248-858-5284

THE PEOPLE OF THE STATE OF  
MICHIGAN

V

Defendant's name, address, and telephone no.

SHUMAKE, ROBERT, SAMUEL, JR

18530 MACK AVE SUITE 339

GROSSE POINTE FARMS MI 48236

CTN/TCN

SID

DOB

96-15-900877-01

07/29/1968

Prosecuting Attorney Name

Bar No.

NORMAN W. DONKER

P31732

Defendant Attorney Name

Bar No.

DOUGLAS D. HAMPTON

P46378

A TRUE COPY  
LISA BROWN

Oakland County Clerk - Register of Deeds

By

*Mandy Tule*  
Deputy

DATED 01/31/2018



Under MCL 769.16A the court clerk shall send a copy of this order to the Michigan State Police Criminal History Record.

MCL 765.15(2), MCL 769.16a, MCL 775.22, MCL 780.766  
MCL 780.826, MCR 6.427(A)

*[Signature]*  
HON. JAMES M. ALEXANDER P23289

MC 219 (6/05) JUDGMENT OF SENTENCE/ COMMITMENT TO JAIL

Page 3  
COURT FILE

**From:** [Bain-Creed, Benjamin \(USANCW\)](#)  
**To:** [David Michael](#)  
**Cc:** [Johnson, Seth \(USANCW\)](#); [Edward Burch](#)  
**Subject:** Re: US v \$252,140 US Currency - IHRC  
**Date:** Monday, September 14, 2020 6:05:21 PM

---

David,

We disagree with many of your observations about this case.

Thanks,  
Ben

Sent from my iPhone

On Sep 14, 2020, at 12:55 PM, David Michael <david@michaelburchlaw.com> wrote:

Ben and Seth:

I have established a good working relationship with many government attorneys over the past 25 years in litigating federal forfeiture cases. It has actually been an honor to always proceed in good faith. So, I just want to be clear about our dealings in this case and my observations as to what has transpired:

1. In the normal course of settlement discussions, the parties would have proceeded in the same way that every AUSA I have dealt with in the past proceeds, which is to stay further proceedings during the settlement process. Obviously, during this coronavirus crisis time, the Court would have had no problem agreeing with that, especially since there is no trial date set in the case. You did not choose that process which would have saved a lot of time.
2. You knew that Claimant Shumake was in negotiations with the IRS to resolve his tax liability in order to pursue a settlement in this case with all or part of the seized funds to be used to satisfy his tax liabilities. This was another reason to agree to stay further proceedings until that was resolved. I really do not understand why you had refused to allow that process to be completed before going forward with the litigation. Quite frankly, it led me to believe that you were really not interested in settlement.
3. When you wanted to interview the attorney for IHRC International, who we voluntarily identified for you, my reading of your email in that regards, let

me to believe that your purpose was not to confirm that Mr. Shumake had any right to use those funds to satisfy his tax liability, but to attempt to have that attorney say that the funds were NEVER collected for IHRC, while at the same time and in the same paragraph of your message, you accused Mr. Shumake of being a "convicted fraudster". So, the inference I drew from those comments was that your interest in that process was not to facilitate settlement, but to lay a perjury or other trap for Mr. Shumake, despite that the true facts would not have assisted you in that endeavor. It was just additional evidence to me that you were really not going forward with a possible settlement.

4. Lastly, your completely unacceptable refusal to allow my office to perfect our expert witness disclosure was the final and major reason for my office to stop any further discussions or negotiations with your office. Apparently, you believed, and probably still do, that, at trial or summary judgment, you would then win your case with your experts while my office had to stand silent and unable to controvert that alleged expert testimony, false as it may be? Once again, my office has NEVER refused such a request nor has any other AUSA ever refused me such a request. Things happen out of sequence for multitude of reasons. To try to take advantage of litigation in the manner you have as to that issue, was, to me, not proceeding in good faith.

No need to respond to any of the above. The issues are now up to the Court to decide. I just wanted to be clear about our litigation position in the case.

Take care.

**DAVID MICHAEL**

*Law Offices of Michael & Burch, LLP  
One Sansome Street, Suite 3500  
San Francisco, CA 94104  
(415) 946-8996 - Office  
(510) 388-2970 - Mobile  
david@michaelburchlaw.com*

**From:** [Johnson, Seth \(USANCW\)](#)  
**To:** [David Michael](#); [Bain-Creed, Benjamin \(USANCW\)](#)  
**Cc:** [Edward Burch](#)  
**Subject:** RE: Shumake  
**Date:** Monday, March 23, 2020 6:47:00 PM  
**Attachments:** [Response Letter re \\$180K offer.pdf](#)

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David – please see the attached letter regarding your settlement offer. Ben and I are both primarily teleworking, but if you would like to discuss, let us know, and we can set up a call.

Seth Johnson  
AUSA | Western District of North Carolina  
704-338-3159

---

**From:** David Michael <david@michaelburchlaw.com>  
**Sent:** Monday, March 9, 2020 4:57 PM  
**To:** Bain-Creed, Benjamin (USANCW) <BBain-Creed@usa.doj.gov>  
**Cc:** Johnson, Seth (USANCW) <SJohnson5@usa.doj.gov>; Edward Burch <edward@michaelburchlaw.com>; David Michael <david@michaelburchlaw.com>  
**Subject:** Re: Shumake

Benjamin, it looks good to me. Good idea to not provide a (Proposed) Order until or unless the Court requests one. You have my consent to e/sign my name and e/file the pleading.

David Michael

On Mar 9, 2020, at 13:48, Bain-Creed, Benjamin (USANCW) <[Benjamin.Bain-Creed@usdoj.gov](mailto:Benjamin.Bain-Creed@usdoj.gov)> wrote:

David-Please let me know if you approve of affixed proposed joint motion. We would like to file soon just so that we can cancel pending reservations for San Francisco travel.

Thanks,  
-Ben

**Benjamin Bain-Creed | Assistant United States Attorney**  
United States Attorney's Office | Western District of North Carolina  
☎ Tel 704-338-3123 | ✉ Email: [benjamin.bain-creed@usdoj.gov](mailto:benjamin.bain-creed@usdoj.gov)

---

**From:** David Michael <david@michaelburchlaw.com>  
**Sent:** Monday, March 9, 2020 2:21 PM

**To:** Bain-Creed, Benjamin (USANCW) <[BBain-Creed@usa.doj.gov](mailto:BBain-Creed@usa.doj.gov)>

**Cc:** Johnson, Seth (USANCW) <[SJohnson5@usa.doj.gov](mailto:SJohnson5@usa.doj.gov)>; Edward Burch <[edward@michaelburchlaw.com](mailto:edward@michaelburchlaw.com)>; David Michael <[david@michaelburchlaw.com](mailto:david@michaelburchlaw.com)>

**Subject:** Re: Shumake

Agree. I understand the complexities of dealing with the IRS. I'm sure my client will cooperate with any issues involving that agency.

Go ahead and draw up a stop/order to continue and let's see where this takes us.

David Michael

On Mar 9, 2020, at 09:05, Bain-Creed, Benjamin (USANCW) <[Benjamin.Bain-Creed@usdoj.gov](mailto:Benjamin.Bain-Creed@usdoj.gov)> wrote:

David,

Thanks for your call last Friday. As I understood the call, you suggested that we might be able to settle the case for forfeiture of \$180,000, return of the remainder of the money, and an agreement that, if necessary, the \$180k in forfeited money could be applied toward a tax debt that you mentioned.

Seth and I have discussed this proposal and believe that the proposal merits serious discussion with our chief. However, we think that, whatever our chief decides, if we are advised to accept or counter, we will have to do so in writing in a way that (1) ensures that the court is offered a path forward on how to deal with all three (somewhat conflicting) claims and (2) ensures that we are all appropriately coordinating with IRS so that we do not promise Mr. Shumake something that we cannot deliver. In short, we will need at least a couple of days to write-up either a counter or just the logistics that would be required to be able to accept your offer, and, in light of restrictions on tax information, we may need information from you before we can write a counter or paper your offer.

In light of that, would you agree to (1) a motion to extend all discovery and motions deadlines for 90 days and (2) both sides canceling all scheduled depositions for now and agreeing to reconvene to conduct fact depositions in May (if we do not settle)?

-Ben

***Benjamin Bain-Creed***

Assistant United States Attorney  
United States Attorney's Office  
Western District of North Carolina  
227 West Trade Street, Suite 1650  
Charlotte, NC 28202  
Phone: (704) 338-3123  
Fax: (704) 344-6629

<Joint Motion re Pretrial Order.3-9-20.docx>



# U.S. Department of Justice

*United States Attorney  
Western District of North Carolina*

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**Headquarters:**

*Suite 1650, Carillon Building  
227 West Trade Street  
Charlotte, North Carolina 28202  
(704) 344-6222  
FAX (704) 344-6629*

**Branch:**

*Room 233, U.S. Courthouse  
100 Otis Street  
Asheville, North Carolina 28801  
(828) 271-4661  
FAX (828) 271-4670*

*Reply to: Charlotte Office*

March 23, 2020

**Via email**

David Michael (david@michaelburchlaw.com)  
Edward Burch (edward@michaelburchlaw.com)  
Law Offices of Michael & Burch, LLP  
One Sansome Street, Suite 1300  
San Francisco, CA 94101

**Re:   *United States of America v. Approximately \$252,140 / 3:19-cv-646 in the WDNC***

David:

We write in response to your offer to settle this case for the forfeiture of \$180,000 of the \$252,140 seized by law enforcement, with the agreement that the remainder of the currency (\$72,140) be returned, and if necessary, the \$180,000 in forfeited currency be applied to a tax debt of Shumake.

Before we can negotiate any specific numerical settlement terms, there is one threshold issue applicable to the entirety of the seized currency that must be addressed. Each Claimant in this case—whether Shumake, Coleman, or IHRC—has filed an answer stating that the “\$252,140.00 US currency belongs to the IHRC Humanitarian Mission” and that the full amount of the seized currency constituted charitable donations “intended for the development of housing and water wells in East Africa.” This presents an obvious hurdle on our end as to your settlement offer: the USAO cannot be a part of taking alleged charitable donations to an organization and using them to satisfy an individual’s tax liability.

To be blunt, we do not believe that Shumake’s purported position as an “Ambassador” with IHRC has any more legitimacy than the “diplomatic immunity” letters he issues his couriers or he himself claims to have (as a simple matter, US citizens—even if they are an actual United States Ambassador appointed by the President and confirmed by the Senate—are not entitled to diplomatic immunity in their own country). Rather, we believe any purported affiliation with IHRC is merely used as a cover for Shumake’s activities. And nothing produced in this case to date would indicate that IHRC does any actual charity work.

Nevertheless, that is the theory that Claimants have chosen to plead, and in light of that, while we can certainly “agree to disagree” for purposes of trying to achieve a settlement, we cannot ask the Court to approve—nor do we believe that the Court would approve—any proposed order of forfeiture with the settlement agreement absent confirmation the seized currency is not in fact charitable donations.

Thus, any future negotiation of monetary terms must necessarily be subject to one simple condition: written confirmation by an IHRC representative—separate from Shumake—with authority to confirm the seized currency was not, in fact, comprised of charitable donations to IHRC and can be returned to Shumake. Also, given that Shumake is a convicted fraudster, we will need permission to speak directly to the IHRC representative providing the written confirmation to confirm its veracity.

Finally, we would note one other issue that you may not have considered that may separately impact any potential resolution of this case. It is our understanding that, as of March 12, 2020, Claimant Robert Shumake owed the IRS \$270,900 in personal income tax liability—an amount in excess of the \$252,140 seized in this case. Further, settlements of forfeiture cases and Government payments generally are processed through the Treasury Offset Program (“TOP”), a system for the Government to collect moneys owed before Treasury issues payments to recipients who owe money. Accordingly, even if the United States Attorney’s Office agreed to the return of \$72,140 in this case, that payment likely would be subject to a TOP offset before it ever reached Claimant Shumake and he would receive nothing but a credit—albeit a valuable credit—against his tax liability. Therefore, in order for us to effectuate the settlement that you propose, Mr. Shumake would have to either (1) negotiate his tax liability with the IRS down to the \$180,000 amount that you propose or (2) agree in writing that TOP may offset and collect the \$72,140 that we would agree to return.

In sum, we believe that these two operative facts/issues—largely within your control and not ours—dictate any resolution of this case going forward, and we welcome a discussion with you about these facts/issues. Please let us know should you have any questions on the above. We genuinely wish to move forward with you to settle this case, but are concerned about these significant hurdles that are largely in your hands to resolve.

Sincerely,

**R. ANDREW MURRAY**  
**UNITED STATES ATTORNEY**

*/s Ben Bain Creed*

Ben Bain-Creed  
Assistant United States Attorney

*/s Seth Johnson*

J. Seth Johnson  
Assistant United States Attorney



Stefan Rose, M.D.  
UMFC, LLC.  
2740 SW Martin Downs Blvd  
Suite 400  
Palm City, FL 34990  
Phone: (561)-795-4452  
E-mail: [toxdoc@umfc.com](mailto:toxdoc@umfc.com)

August 25, 2020

Benjamin Bain-Creed  
Assistant United States Attorney  
United States Attorney's Office  
Western District of North Carolina  
227 W. Trade Street; Suite 1650  
Charlotte, NC 28202

**Re.: US v. Darren Lennard Coleman**

**Report of Stefan Rose, M.D.**

I have been retained as an expert in Forensic Toxicology and Psychiatry in the above-styled case. I am a physician trained in Forensic Toxicology, Clinical Pathology and General Psychiatry. I earned my Doctor of Medicine degree from the University of Miami School of Medicine in 1985. I also earned my Bachelor of Arts with a major in Biological Sciences from Florida Atlantic University in Boca Raton, Florida, in 1981.

I trained as a Resident Physician for two years in Clinical Pathology (Laboratory Medicine) at the University of Alabama, Birmingham, Alabama from 1985 to 1987. From 1988-1989, I was in graduate school in Exercise Physiology at the University of Miami, Miami, Florida. I trained as an Associate Medical Examiner Physician in Training in the Forensic Toxicology Laboratory at the Dade County Medical Examiner's Department in Miami, Florida from 1989 to 1991. From 1990-1991, I was a clinical research fellow in the Department of Neurology, Experimental Toxicology-Neurotoxicology at the University of Miami, School of Medicine in Miami, Florida. Additionally, I trained as a resident physician in the Department of Psychiatry at the University of Miami, School of Medicine in Jackson Memorial Hospital from 1995 to 1998.

From 1992 to 1994, I served as an Assistant Professor in the Department of Epidemiology at Public Health at the University of Miami, School of Medicine. I served as the Director of the Forensic Toxicology Laboratory in that position at the University of Miami School of Medicine. I have had a Courtesy Faculty appointment at Florida International University, Miami, Florida in the Department of Chemistry and Biochemistry since 1997.

I have taught Forensic Toxicology at Florida International University, University Park, in the Department of Chemistry. I was also a Course Coordinator/Instructor in the Chemical Dependency Training Institute, University of Miami School of Continuing Studies, Miami Florida, 1991.

I have received formal training in the forensic laboratory analysis of blood and urine samples (ante-mortem and post-mortem) for alcohol and drugs and hospital laboratory analysis of blood, serum and urine samples. I have personally performed screening and confirmation tests on thousands of samples including serum ethanol by enzyme assay, blood ethanol by static headspace gas chromatography-FID and blood drugs and urine drugs by gas chromatography-mass spectrometry.

During my tenure as Laboratory Director of the University of Miami Forensic Toxicology Laboratory I started researching the detector dog's ability to discriminate the odor of cocaine from other odors. I performed the first experiment in 1993 in the toxicology laboratory with Sgt. Wes Dallas and his narcotics detector dog of the Metro Dade Police Department. That dog alerted to the odor of cocaine, methyl benzoate, and did not alert to the odor of pure cocaine. That experiment initiated a line of research and body of published work in collaboration with Kenneth G. Furton, Ph.D. of the Department of Chemistry at Florida International University, Miami, Florida. Please see my cv for selected publications on this research.

I am also formally trained and experienced in the clinical diagnosis and treatment of people under the acute influence of alcohol and drugs as well as the administration of therapeutic medications to patients.

I have written various papers in the subject matter of toxicology which are attached hereto and the attached curriculum vitae. I am Board Certified and a Diplomat of the National Board of Medical Examiners and a Diplomat of the American Board of Forensic

Examiners, and I currently hold a Florida Medical License and DEA license as well. I have been retained on numerous forensic cases and I have testified as an expert in various courts of law including State, Federal, civil and criminal.

### **Materials reviewed**

1. K-9 team training records of 2015 to 2019 (339 pages).
2. K-9 team deployment records of 2015 to 2020 (1350 pages).
3. Pineville Police Dept report of 6-27-2016 regarding \$252,140.00 seizure.
4. Teleconferences with K-9 handler Officer Lee Stanley on 8-5-2020 and 8-12-2020.

### **Opinions**

1. It is my opinion that the K-9 team of Officer Lee Stanley and detector dog Ciro are properly trained in the detection of the narcotics odors they are certified to detect, that is methamphetamine, heroin, cocaine and marijuana. The team trained on large amounts of narcotics odor, multi gram amounts, and they used blanks in the certification process to show no alert when the narcotics odor was not present. Also there are many “no alerts” in the deployment records, again demonstrating that K-9 Ciro does not alert simply because he is making a search.
2. It is my opinion that K-9 Ciro does not alert to innocent circulated paper currency but does alert to currency containing the odor of large amounts of narcotics he was trained on. This is demonstrated by the non-alerts to circulated paper currency when training in public places such as auto dealerships, auto repair shops, and the local JAARS Mission retail shop. Also K-9 Ciro has not alerted to paper currency bundles that were on the person searched by K-9 Ciro or in a vehicle searched by K-9 Ciro.
3. It is my opinion that K-9 Ciro did not alert to any odor of cocaine on innocent circulated paper currency in this case.
4. My opinions are within reasonable medical and forensic toxicologic certainty.

Signed,

A handwritten signature in blue ink that reads "Stefan Rose MD". The signature is written in a cursive, flowing style.

Stefan Rose, M.D.



Stefan Rose, M.D.  
UMFC, LLC  
2740 SW Martin Downs Blvd  
Suite 400  
Palm City, FL 34990  
Phone: (561)-795-4452  
E-mail: [toxdoc@umfc.com](mailto:toxdoc@umfc.com)

January 4, 2021
















Benjamin Bain-Creed  
Assistant United States Attorney  
United States Attorney's Office  
Western District of North Carolina  
227 W. Trade Street; Suite 1650  
Charlotte, NC 28202

**Re.: US v. Darren Lennard Coleman**

Supplemental Report of Stefan Rose, M.D.

This report is in response to the December 3, 2020 report of Jay M. Poupko, Ph.D. and subsequent to my report of August 25, 2020, my deposition of December 15, 2020 and my review of materials received on December 15, 2020.

Additional materials reviewed:

-  1 - Rose CV- PALM CITY FLORIDA 2020 v. 1.01.pdf
-  2 - Testimony List-Past Four Years-Rose.pdf
-  3 - ROSE REPORT COLEMAN 2020.pdf
-  4 - Furton et al Identification Odor Sig 2002 F in Garcia.pdf
-  5 - Furton Depo in Garcia 2018 05-07.pdf
-  6 - SWGDOG 2011 03-31 resp to Lit study.pdf
-  7 - Pineville PD Report Stanley and Ciro Deployment re 252k.pdf
-  8 - DHS Incident Report re 252k NC Shumake.pdf
-  9 - Deposit Docs to Loomis.pdf
-  10 - Poupko Opinion \$252,140 US Currency Forfeiture Case 12-4-20.pdf
-  11 - Poupko\_et\_al-2018-JofForensicSciences.pdf
-  12 - Furton et al Field and Lab Comp K9s 1998 - G from Garcia mtn.pdf
-  13 - Furton et al Odor Sig 1997 H in Garcia.pdf
-  14 - Rose Decl from prev case I in Garcia.pdf
-  15 - Chart Cocaine MB Dog Currency.pdf

The report of Jay M. Poupko, Ph.D. contains ten paragraphs. I will respond to each one, numbered, as necessary.

Paragraph one to three:

It is important to distinguish small amounts (one microgram, ten micrograms) of cocaine hydrochloride and/or cocaine base present as background contamination on individual, innocent (not drug traffic involved) circulated currency bills (microgram amounts with a microgram equal to one millionth of a gram) compared to large amounts (hundreds or thousands of micrograms) of cocaine hydrochloride and/or cocaine base present as gross contamination on individual currency bills involved in the illicit trafficking of cocaine.

I agree that innocent circulated currency may contain small, background amounts of cocaine hydrochloride and/or cocaine base up to “several micrograms per bill” as stated in the report of Jay M. Poupko, Ph.D.

However this is not enough cocaine hydrochloride and/or cocaine base to have caused K-9 Ciro to alert to the \$252,140 US seized currency in this case.

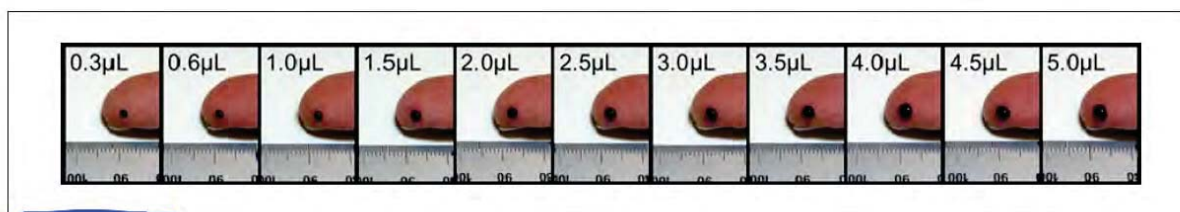
The odor of cocaine is dependent on the total surface area of the currency exposed to the air. The total surface area is calculated by measuring the height, width and depth of each stack of bills. It is unknown how many stacks were in this case, but it seems that about 24 stacks of bills were present based on the photos of the currency seized. If 24 stacks of bills are used to calculate the square surface area 12,147 bills in 24 stacks equals about 500 bills per stack and based on the dimensions of a single bill, 24 stacks of bills would equal about 11 square feet of surface area for methyl benzoate to be given off.

It takes 11 bills to make 1 square foot of surface area, so 11 times 11 square feet of total surface area equals about 121 bills of surface area for methyl benzoate to be given off and detected. Using Jay M. Poupko, Ph.D. numbers in his report of 15 milligrams of cocaine per the 12,147 bills, that equals about 1.235 micrograms cocaine per bill. (1.235 micrograms times 12,147 bills equal about 15 milligrams).

However, total amount of exposed cocaine for the release of methyl benzoate is only about 121 bills, so 121 bills times 1.235 micrograms cocaine per bill equals about 150 micrograms exposed cocaine for the release of methyl benzoate.

So by using Jay M. Poupko, Ph.D. values of 0.01% to 0.036% of methyl benzoate by cocaine weight that would be 150 micrograms cocaine times 0.01% equals 0.015 micrograms methyl benzoate available for detection, and 150 micrograms cocaine times 0.036% equals 0.054 micrograms methyl benzoate available for detection.

Using the largest amount of methyl benzoate as described by Jay M. Poupko, Ph.D. 0.054 micrograms of methyl benzoate would be, in terms of volume, about 0.05 microliters, a very small volume. In fact that volume would be about six times smaller than the smallest blood volume in the example photograph below, underlined in blue. That small volume would probably not be visible to the naked eye.



**Figure 7.** Comparison chart of blood volume (µL) compared to a visual chart of the same blood drop size shown to patients before responding to the survey of blood sampling practices.

Using Jay M. Poupko, Ph.D. values from his report the amount of methyl benzoate available would be 18 to 66 times less than the one microgram methyl benzoate minimum threshold of detection by the drug dogs.

And that would be 180 times to 660 times less than the amount of methyl benzoate needed for 50% of drug dogs to alert.

And that would be 1800 times to 6600 times less than the amount of methyl benzoate needed for 100% of drug dogs to alert.

The amount of methyl benzoate present on circulated currency, using the estimations of Jay M. Poupko, Ph.D., is not enough for K-9 Ciro to have alerted. Much more methyl benzoate would have to have been present, consistent with recent exposure to large amounts of cocaine or cocaine odor, gram quantities and above. Innocent circulated currency does not fit that profile.

#### Paragraph 4:

Methyl benzoate is produced spontaneously from illicit cocaine at various rates depending on ambient temperature, humidity, and the presence of residual solvents from the manufacturing process.

However methyl benzoate is rapidly evaporated from circulated currency as opposed to bundled currency, and one would expect circulated currency to also evaporate any residual solvents and water.<sup>1</sup> (see experimental results of **figure 1** in the second page of the first listed reference) Therefore one would expect regular circulated currency to have a much lower amount of methyl benzoate compared to currency not circulated and involved in illicit cocaine transactions.

In this case the K-9 Ciro was shown to not alert to circulated currency while deployed in the field.

#### Paragraph 5:

The evidence shows that methyl benzoate is the dominant odor of illicit cocaine that detector dogs alert to and other odors associated with methyl benzoate are expected to be present but are not necessary for the drug dog to reliably alert.

Paragraph 6:

My opinions are limited to the odor of cocaine, cocaine, detector dogs and currency in this case.

Paragraph 7 (listed as the second paragraph 6):

This is a contradictory argument. Wrapping of currency bundles will impede the evaporation of methyl benzoate and thus the concentration of the odor in the air around the currency. Therefore much more methyl benzoate (and it follows, much more cocaine) would have to be present in wrapped currency bundles to cause a drug dog to alert.

Paragraph 8:

My opinions are limited to the odor of cocaine, cocaine, detector dogs and currency in this case. I did not address any of the analytical testing in this case.

Paragraph 9:

Many scientific experimental protocols start with small groups of individuals. This argument is a false argument. The scientific method was followed for all experiments, and many more detector dogs were tested over the years in hundreds of experimental trials,

Further, Jay M. Poupko, Ph.D. and his colleagues may use our protocols and repeat any of the experiments we have published in order to determine if their results are consistent or not consistent with our published work that has been done over the last 25 years.

Paragraph 10:

Not relevant to my opinions.

References

1. K.G. Furton, Y.-L. Hsu, T. Luo, J. Wang and S. Rose, " Odor Signature of Cocaine Analyzed by GC/MS and Threshold Levels of Detection for Drug Detection Canines", Curr. Top. Forensic Sci., Proc. Meet. Int. Assoc. Forensic Sci., 14th, vol. 2, 1997, 329-332
2. K.G. Furton, Y.-L. Hsu, T. Luo, A. Norelus and S. Rose, " Field and Laboratory Comparison of the Sensitivity and Reliability of Cocaine Detection on Currency Using Chemical Sensors, Humans, K-9's and SPME/GC/MS/MS Analysis" in Investigation and Forensic Science Technologies, K. Higgins, V.M. Baylor, and LI Rudin, Editors, Proc. SPIE Vol. 3576, (1999)
3. Furton, KG et al. Identification of odor signature chemicals in cocaine using solid-phase microextraction-gas chromatography and detector dog response to isolated compounds spiked on US paper currency. J. Chromatograph Sci. 2002;40(3):147-155.
4. Lorenzo N, Wan T, Harper RJ, Hsu YL, Chow M, Rose S, Furton KG, "Laboratory and field experiments used to identify *Canis lupus var. familiaris* active odor signature

chemicals from drugs, explosives, and humans”, Anal Bioanal Chem. 2003 Aug;376(8):1212-24. Epub 2003 Jul 04.

5. Grady et al, A Clinical Evaluation of Routine Blood Sampling Practices in Patients With Diabetes: Impact on Fingerstick Blood Volume and Pain, J Diabetes Sci Technol, 2014 Jul;8(4):691-8.

All of my opinions are within reasonable scientific, medical and toxicological certainty.

Signed,

A handwritten signature in blue ink that reads "Stefan Rose MD". The signature is written in a cursive, flowing style.

Stefan Rose, M.D.

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
3                   CHARLOTTE DIVISION

4                   CIVIL NO. 3:18CV646

5                   UNITED STATES OF AMERICA,

6                   Plaintiff,

7                   v.

8                   APPROXIMATELY \$252,140.00 IN US  
9                   CURRENCY SEIZED FROM DARREN  
10                  LENNARD COLEMAN ON JUNE 27, 2016  
11                  AT CHARLOTTE-DOUGLAS INTERNATIONAL  
12                  AIRPORT,

13                  Defendant.

14                  \_\_\_\_\_/

15                  INTERNATIONAL HUMAN RIGHTS COMMISSION  
16                  and ROBERT SHUMAKE,

17                  Claimants.

18                                  DEPOSITION OF STEFAN ROSE, M.D.  
19                                  (via Zoom videoconference)

20

21                  DATE:                   December 15, 2020

22                  TIME:                  2:14 p.m. - 4:10 p.m. EDT

23                  TAKEN BY:           Deborah Carmela Dew, RPR, FPR,  
24    Notary Public, State of Florida

25                  JOB NO.:           696769

<p>1 APPEARANCES VIA ZOOM VIDEOCONFERENCE</p> <p>2</p> <p>3 FOR THE PLAINTIFF</p> <p>4 BENJAMIN BAIN-CREED, ESQ.</p> <p>5 Assistant United States Attorney</p> <p>6 United States Attorney's Office</p> <p>7 227 West Trade Street, Suite 1650</p> <p>8 Charlotte, North Carolina 28202</p> <p>9 704-344-6222</p> <p>10 benjamin.bain-creed@usdoj.gov</p> <p>11</p> <p>12 FOR THE CLAIMANTS INTERNATIONAL HUMAN RIGHTS</p> <p>13 COMMISSION AND ROBERT SHUMAKE:</p> <p>14</p> <p>15 EDWARD M. BURCH, ESQ.</p> <p>16 Law Offices of Michael &amp; Burch LLP</p> <p>17 One Sansome Street, Suite 3500</p> <p>18 San Francisco, California 94104</p> <p>19 415-946-8996</p> <p>20 edward@michaelburchlaw.com</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 2</p>	<p>1 C O N T E N T S</p> <p>2</p> <p>3 WITNESS PAGE</p> <p>4 STEFAN ROSE, M.D.</p> <p>5 Direct Examination by Mr. Burch 5</p> <p>6 Cross-Examination by Mr. Bain-Creed 72</p> <p>7 CERTIFICATE OF OATH 74</p> <p>8 CERTIFICATE OF REPORTER 75</p> <p>9 ERRATA PAGES 76-77</p> <p>10</p> <p>11 EXHIBITS</p> <p>12 CLAIMANTS' EXHIBITS PREMARKED ON PAGE</p> <p>13 No. 1 Stefan Rose, M.D. Curriculum Vitae 5</p> <p>14 No. 2 Rose Testimony List, Past Four Years 5</p> <p>15 No. 3 Report of Stefan Rose, M.D. 5</p> <p>16 Re: US v Darren Lennard Coleman</p> <p>17 August 25, 2020</p> <p>18 No. 4 (Exhibit F) Identification of Odor 5</p> <p>19 Signature Chemicals in Cocaine using</p> <p>20 Solid-Phase Microextraction Gas</p> <p>21 Chromatography and Detector-Dog Response</p> <p>22 to Isolated Compounds Spiked on U.S.</p> <p>23 Paper Currency</p> <p>24 No. 5 Deposition of Kenneth G. Furton, PhD 5</p> <p>25 May 7, 2018</p> <p>26 No. 6 SWGDOG March 31, 2011 document 5</p> <p>27 No. 7 Pineville Police Department 5</p> <p>28 K-9 Deployment Report</p> <p>29</p> <p>30 No. 8 DHS Incident Report Re: \$251,140 5</p> <p>31</p> <p>32 No. 9 Deposit Docs to Loomis 5</p> <p>33</p> <p>34 No. 10 Jay M. Poupko Opinion, PhD 5</p> <p>35 Re: \$252,140, December 3, 2020</p>
<p>1 EXHIBITS (cont'd)</p> <p>2 CLAIMANTS' EXHIBITS PREMARKED ON PAGE</p> <p>3 No. 11 2018 Journal of Forensic Sciences Review 5</p> <p>4 (Poupko)</p> <p>5</p> <p>6 No. 12 (Exhibit G) Field and Laboratory 5</p> <p>7 Comparison of the Sensitivity and</p> <p>8 Reliability of Cocaine Detection on</p> <p>9 Currency Using Chemical Sensors, Humans,</p> <p>10 K-9s and SPME/GC/MS/MS Analysis (Furton)</p> <p>11</p> <p>12 No. 13 (Exhibit H) 1997 Odor Signature of 5</p> <p>13 Cocaine Analyzed by GC/MS and Threshold</p> <p>14 Levels of Detection for Drug Detection</p> <p>15 Canines (Furton)</p> <p>16 No. 14 (Exhibit I) Rose Decision from Previous 5</p> <p>17 Case</p> <p>18</p> <p>19 No. 15 Chart Cocaine of MB Dog Currency 5</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p>	<p>1 (Claimants' Exhibit Nos. 1 - 15 marked.)</p> <p>2 THE REPORTER: For the deposition of Stefan Rose,</p> <p>3 Dr. Stefan Rose, will all counsel please stipulate on</p> <p>4 the record to the witness being sworn in remotely.</p> <p>5 MR. BURCH: Yes, stipulated.</p> <p>6 MR. BAIN-CREED: United States stipulates.</p> <p>7 THE REPORTER: Doctor, can you please raise your</p> <p>8 right hand to be sworn?</p> <p>9 AND THEREUPON,</p> <p>10 STEFAN ROSE, M.D.</p> <p>11 having been first duly sworn, testified as follows:</p> <p>12 THE WITNESS: Yes, I do.</p> <p>13 THE REPORTER: You may begin.</p> <p>14 MR. BAIN-CREED: Before you get flowing, can I</p> <p>15 just reserve my objections except as to form?</p> <p>16 MR. BURCH: Yes.</p> <p>17 MR. BAIN-CREED: Okay, great.</p> <p>18 MR. BURCH: Duly noted.</p> <p>19 DIRECT EXAMINATION</p> <p>20 BY MR. BURCH:</p> <p>21 Q. Okay. Hello, Dr. Rose. My name is Edward</p> <p>22 Burch -- that's B-u-r-c-h, Debbie -- and I represent the</p> <p>23 Claimant, Robert Shumake, in this case, United States</p> <p>24 versus 252 some odd thousand dollars that was seized from a</p> <p>25 Darren Coleman in 2016.</p>
<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>Page 4</p>	<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 6</p> <p>1 Dr. Rose, is that familiar to you when I say</p> <p>2 that?</p> <p>3 A. Yeah, the case sounds familiar.</p> <p>4 Q. Okay. Now the first some initial questions, have</p> <p>5 you been deposed before?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So I'm only briefly going to cover some of</p> <p>8 the kind of preliminary things I normally cover. But just</p> <p>9 a reminder that you're under oath, and so it's just like in</p> <p>10 court where everything you say is under penalty of perjury.</p> <p>11 Does that make sense?</p> <p>12 A. Yes.</p> <p>13 Q. And one thing I like to mention at the onset is</p> <p>14 that, you know, we have a court reporter here, and I'm</p> <p>15 going to do my best to let you finish your answers and ask,</p> <p>16 respectfully, that you let me finish my question.</p> <p>17 Sometimes I do little pauses so I have an issue with that</p> <p>18 every once in a while, but just so that we can get a good</p> <p>19 clean record with the court reporter. Is that fair enough,</p> <p>20 make sense?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And then I'll probably ask a number of</p> <p>23 questions that seem sort of obvious. I probably know the</p> <p>24 answer to a lot of the questions I'm going to ask, but I</p> <p>25 remind you that, you know, I have to make my record. And,</p>	<p style="text-align: right;">Page 7</p> <p>1 you know, you don't necessarily -- I wouldn't read too much</p> <p>2 into a question.</p> <p>3 But with that said, if there's a question that's</p> <p>4 unclear, please definitely, rather than trying to answer</p> <p>5 it, make me restate it and ask it a little bit better.</p> <p>6 Does that make sense?</p> <p>7 A. Certainly.</p> <p>8 Q. Okay. The last kind of preliminary question is</p> <p>9 are you ill or on any medication or anything like that that</p> <p>10 would prevent you from understanding the questions and</p> <p>11 giving your best testimony today?</p> <p>12 A. No.</p> <p>13 Q. Okay. So I guess let's get started into a little</p> <p>14 bit more of the substance.</p> <p>15 In this case you put together a report, an</p> <p>16 opinion report -- let me see what the date is on it --</p> <p>17 August 25, 2020, and you titled the report of U.S. versus</p> <p>18 Darren Lennard Coleman. I have it premarked as No. 3.</p> <p>19 Do you have that document with you?</p> <p>20 A. I do.</p> <p>21 Q. Okay.</p> <p>22 A. I have it up now on my screen.</p> <p>23 Q. Okay. And this is -- this is your opinion report</p> <p>24 in this case?</p> <p>25 A. I generated the report, they're my opinions.</p>
<p style="text-align: right;">Page 8</p> <p>1 Q. Great. So in this case, I mean, is it accurate</p> <p>2 or fair that you would consider yourself being offered as</p> <p>3 an expert in chemistry and toxicology for this case?</p> <p>4 A. Well, I would say that I'm offered in the areas</p> <p>5 of expertise that I'm formally educated and trained in, and</p> <p>6 that's outlined in detail in -- in my curriculum. I'll be</p> <p>7 happy to provide that to you if you'd like.</p> <p>8 Q. I think I have the curriculum. I have it</p> <p>9 premarked as Number 1, and that's -- but I have -- well,</p> <p>10 maybe you can confirm. Is Number 1 your curriculum?</p> <p>11 A. Are we talking about the exhibits now?</p> <p>12 Q. Yeah. Well, I mean, I have it marked as a file</p> <p>13 named Number 1 there.</p> <p>14 A. Yes. Yes. Well, I have -- I have a list of</p> <p>15 exhibits, and Number 1 is -- is my curriculum.</p> <p>16 Q. Okay. So in this CV, when I go through it, I</p> <p>17 don't necessarily -- I don't -- I didn't see any formal</p> <p>18 degrees or education in animal behavior or that type of</p> <p>19 thing, is that correct?</p> <p>20 A. That's correct.</p> <p>21 Q. Okay. And have you ever been a law enforcement</p> <p>22 drug dog detection handler?</p> <p>23 A. No.</p> <p>24 Q. And have you ever been a handler of any type of</p> <p>25 detection dog?</p>	<p style="text-align: right;">Page 9</p> <p>1 A. My own personal dogs.</p> <p>2 Q. Okay. And so have you ever had any formal</p> <p>3 training for sort of law enforcement drug detection dogs?</p> <p>4 A. Not in law enforcement, no.</p> <p>5 Q. Okay. Is there some other training vis-a-vis</p> <p>6 drug dog detection that you have had or any kind of law</p> <p>7 enforcement detection?</p> <p>8 A. Yes. I would answer that my formal training</p> <p>9 would include my education in the chemical sciences, in the</p> <p>10 pharmacology sciences, in the toxicology sciences, and in</p> <p>11 the behavioral sciences that would envelope the scope of my</p> <p>12 formal education and training that would have to do with</p> <p>13 animal behavior, although not animal behavior per se.</p> <p>14 Q. Okay. And have you ever certified a detection</p> <p>15 dog, any type of law enforcement detection dog in terms</p> <p>16 of -- maybe I should be more specific -- so that if -- for</p> <p>17 instance, a dog detection team with a handler and a dog,</p> <p>18 have you ever been sort of the certification person who's</p> <p>19 saying, okay, this is a well-qualified dog that you can go</p> <p>20 out in the field?</p> <p>21 A. Well, for a number of years I was -- the answer</p> <p>22 is yes. For a number of years I was on a committee at</p> <p>23 Florida International University that did exactly that,</p> <p>24 certified K-9 handlers and dogs, the team if you will.</p> <p>25 Q. What was the name of that committee?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. I don't know at the moment, but it was part of</p> <p>2 IFRI, International Forensic Research Institute, at Florida</p> <p>3 International University in the Department of Chemistry and</p> <p>4 Biochemistry.</p> <p>5 Q. Okay. And so the certifications that you were</p> <p>6 part of issuing, was that -- would some dog team get</p> <p>7 certified and then they would go out in the field somewhere</p> <p>8 and be able to work in the field?</p> <p>9 A. Yes. These were law enforcement K-9 teams or,</p> <p>10 let's see if I recall correctly, civilian K-9 teams that</p> <p>11 were subcontracting for law enforcement. I think that's</p> <p>12 what they did.</p> <p>13 Q. Okay. And, let's see, was it drug detection?</p> <p>14 A. Drug detection, yes, was the area that I was in.</p> <p>15 Q. Okay. So in this case, do you consider that</p> <p>16 you're offering your opinion in regard to the quality and</p> <p>17 sufficiency of this particular dog's training that was</p> <p>18 involved in this case?</p> <p>19 A. Well, I think that I'm offering my opinions</p> <p>20 pretty much as stated in my report. So I think it's a</p> <p>21 relatively narrow focus. I think it's a, you know,</p> <p>22 relatively, you know, well-defined scope. So I think, you</p> <p>23 know, that's where, you know, you would find the -- the</p> <p>24 answer to that question, you know, in my report.</p> <p>25 Q. So I guess you're saying is that the report</p>	<p style="text-align: right;">Page 11</p> <p>1 speaks for itself in regard to the scope of your opinion?</p> <p>2 A. I think that based on what I was asked to do in</p> <p>3 this case for the U.S. Attorney's Office, that my report</p> <p>4 defines, you know, the scope of what I was asked to do.</p> <p>5 Now if I'm asked other questions, you know, by other</p> <p>6 lawyers, you know, in other venues, you know, I certainly</p> <p>7 have other things to say, but I was not asked to do that in</p> <p>8 this case other than what's published in my report.</p> <p>9 So that's -- at this time right now, I've been</p> <p>10 asked to provide a rebuttal to Jay Poupko's report, which</p> <p>11 I'll be working on, you know, between now and January.</p> <p>12 Q. Okay. So I might jump ahead just to get us</p> <p>13 focused here. When I look at your ultimate I guess it's</p> <p>14 called opinions here, and this is page 3 of your report, it</p> <p>15 says opinions and you have 1 through 4. Are you with me</p> <p>16 there?</p> <p>17 A. Yes, I am.</p> <p>18 Q. Okay. So when I look at number 1 and 2, I read</p> <p>19 this as more of a -- this is an opinion about the quality</p> <p>20 of the -- the K-9 detection team's training in this case,</p> <p>21 is that fair?</p> <p>22 A. Well, you know, I think that the characterization</p> <p>23 of my opinions 1 and 2 go to what we would call sensitivity</p> <p>24 and specificity, that's false negatives and false</p> <p>25 positives. And what's especially important would be false</p>
<p style="text-align: right;">Page 12</p> <p>1 positives. That is an alert by a K-9 when there's no odor</p> <p>2 present that they're trained to alert to. I think, you</p> <p>3 know, that's where, you know, the big problem is in, you</p> <p>4 know, this type of work.</p> <p>5 So then the idea of circulated paper currency</p> <p>6 having enough narcotics odor of cocaine on it to cause a</p> <p>7 properly trained K-9 to alert, that goes to false</p> <p>8 positives. And that's what those two opinions really</p> <p>9 relate to directly.</p> <p>10 Q. Okay. And then is it fair that number 3, which</p> <p>11 is, "It is my opinion that K-9 Ciro did not alert to any</p> <p>12 odor of cocaine on innocent circulated paper currency in</p> <p>13 this case," that numbered item, that opinion, that's more</p> <p>14 of a question of chemistry than it is than 1 and 2, would</p> <p>15 you agree with that?</p> <p>16 A. Well, you know, I would say it's more than that.</p> <p>17 The alerting to an odor really encompasses, you know, all</p> <p>18 the areas of my education, training and experience;</p> <p>19 chemistry, pharmacology, toxicology, and animal and human</p> <p>20 behavior when it comes to olfaction or the sense of smell.</p> <p>21 Q. Okay. I think I -- I think I get the flavor</p> <p>22 there. So let me -- with that in -- with those answers, I</p> <p>23 think your opinion again, like we just talked about, sort</p> <p>24 of delves into training insofar as you talk about the</p> <p>25 blanks used and things like this.</p>	<p style="text-align: right;">Page 13</p> <p>1 So part of that opinion is influenced by you had</p> <p>2 telephone discussions with this particular dog handler, Lee</p> <p>3 Stanley, correct?</p> <p>4 A. Yes.</p> <p>5 Q. Did you make any notes of those conversations?</p> <p>6 A. I believe I do have a file with handwritten notes</p> <p>7 in it.</p> <p>8 Q. Okay.</p> <p>9 MR. BURCH: Okay. Ben, I might request those,</p> <p>10 but I don't want to take up time in this deposition.</p> <p>11 But just to give the heads up that I --</p> <p>12 MR. BAIN-CREED: Sure.</p> <p>13 MR. BURCH: We can talk about whether you're</p> <p>14 willing to give it, but just to put that on the record</p> <p>15 that I might want to see those notes.</p> <p>16 MR. BAIN-CREED: I'll talk about it with Stefan,</p> <p>17 Dr. Rose. Thanks.</p> <p>18 MR. BURCH: Okay.</p> <p>19 BY MR. BURCH:</p> <p>20 Q. So moving on from that, I guess I want to talk a</p> <p>21 little bit about first was just what the dog's training,</p> <p>22 Did you talk with -- I see that also in your report it</p> <p>23 indicates that you reviewed the -- the dog's training and</p> <p>24 certification records, Dr. Rose, is that correct?</p> <p>25 A. Yes, that's correct.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Okay. Now in terms of the dog -- if I say "the 2 dog team's maintenance training," does that mean anything 3 to you?</p> <p>4 A. Well, that would be ongoing training after 5 initial certification.</p> <p>6 Q. Okay. So that's my understanding also.</p> <p>7 So with that, is it your understanding of this 8 particular Officer Stanley and Ciro, was there maintenance 9 training -- well, maybe I should back up.</p> <p>10 You are familiar with single blind and double 11 blind training in the context of dogs?</p> <p>12 A. Well, I'm familiar with single blind, double 13 blind, and no blinded experimental protocols generally 14 speaking using the scientific method for experimental 15 research. So it would have application here, you know, in 16 some circumstance.</p> <p>17 Q. Okay. Well, let's -- maybe it's a good way -- 18 maybe it's a good way to start if we talk about the dog's 19 certification because we do have some certification records 20 in the -- in the dog -- dog materials, correct?</p> <p>21 A. I know I have them. The name of the file --</p> <p>22 Q. Yeah, and I -- I didn't provide those as an 23 exhibit, a marked exhibit, so I think I'm just going to 24 have to go basically off of your recollection. And if you 25 have them, you can refer to them, but I won't have them.</p>	<p style="text-align: right;">Page 15</p> <p>1 A. Yeah. I think I have the complete record set 2 that was sent to me, 339-page record set that's labeled 3 Ciro's Training Docs, so that's what I have in my 4 possession.</p> <p>5 Q. Okay. So if I focus on the certification of Ciro 6 and Lee Stanley, what this -- this was -- is it fair to say 7 that these are sort of like some tests of drug detection 8 that this team goes through to say okay, here, we're going 9 to issue you your certification, you can go in the field 10 and be a drug detection dog, fair?</p> <p>11 A. Well, it's -- it's a little more than that. 12 First the K-9 has to be conditioned to detect the odor of 13 interest. Then it has to be trained to alert to the odor 14 of interest, you know, one way or the other, passive alert 15 or active alert. And then it has to be trained to 16 discriminate between other odors and no odors.</p> <p>17 So that should all be part of the, you know, the 18 training process that would be not proprietary, but it 19 would be perhaps unique to a given, you know, training 20 department or training entity depending on how they, you 21 know, assembled the syllabus of training. So there's 22 multiple pathways to reach the same result when it comes to 23 this kind of training.</p> <p>24 So if one wants to know more details about that, 25 then, you know, you'd have to, you know, dive into all of</p>
<p style="text-align: right;">Page 16</p> <p>1 the paper records and perhaps, you know, get testimony from 2 the trainers and the supervisors and so on.</p> <p>3 Q. Okay. So, yeah. And I don't want to go too deep 4 into that stuff, but your opinion does touch on it. But 5 ultimately there's some kind of -- with the certification 6 for a dog to be certified, as this dog was, there's a test 7 at some point, correct?</p> <p>8 A. Generally there's an evaluation of the team, that 9 is the K-9 and the human handler, that is ongoing from day 10 one until day end. And I agree that, you know, there's 11 usually some kind of formal field examination, perhaps 12 paper examination, you know, that signifies the successful 13 completion of an initial training of the team.</p> <p>14 Q. Okay. So with that, what you just referred to, 15 whatever you want to call it, I'm going to -- let's just 16 say this, I'm going to call that a certification test just 17 so that we know what we're going to talk about, there's 18 some test that happened.</p> <p>19 In the certification test, do you know if that 20 was done as a no blind, single blind, or double blind?</p> <p>21 A. At the moment I do not. I'd have to dig into the 22 records and look that up.</p> <p>23 Q. No, that's okay. I don't want you to dig into it 24 too much. Did you have that information at the time that 25 you completed your report, whether it was, you know, what</p>	<p style="text-align: right;">Page 17</p> <p>1 type of -- whether it was blind or not for the 2 certifications?</p> <p>3 A. Again, I don't know the answer to that. The 4 answer to your question, I would have to look back into the 5 records. I did not address it in my report specifically, 6 so I would have to go back and, you know, and address that 7 question specifically.</p> <p>8 Q. Okay. And so then I want to shift back over to 9 the maintenance training. And just so that we're on the 10 same page, for me maintenance training means like what the 11 dog handler is going to do with his dog sort of on a daily 12 basis in terms of presenting him with different drugs that 13 the dog is trained to alert to keep him in sort of in 14 shape. Is that a fair simplistic way to say it?</p> <p>15 A. Well, I mean, I guess that's one way to look at 16 it. The purpose of ongoing training is to continue to 17 reinforce the behaviors that are desired, then to 18 de-enforce, you know, any behaviors that arise that need to 19 be corrected for. So, you know, it's like a program of 20 continuous quality improvement or continuous quality 21 control.</p> <p>22 Q. Okay. So for the ongoing training, what I'm kind 23 of calling the maintenance training, you said -- I think 24 you referred to it as ongoing training, with that type of 25 training where the handler is mostly responsible for doing</p>

<p style="text-align: right;">Page 18</p> <p>1 that on a regular basis, do you know if the records or</p> <p>2 other information that you have in forming this report, do</p> <p>3 you know if that was no blind, single blind, or double</p> <p>4 blind?</p> <p>5 A. Well, I think Handler Stanley was in a small</p> <p>6 department and so I think that he did a lot of his training</p> <p>7 solo. So I guess -- I guess it could be single blind</p> <p>8 because the K-9 did not know where the hides were. But,</p> <p>9 you know, in a circumstance like that, you know, with a</p> <p>10 small department, you still want to conduct, you know,</p> <p>11 training, then it would not be blinded because the handler</p> <p>12 obviously would know where the hides were and what the</p> <p>13 hides consisted of.</p> <p>14 Q. Okay. And so in the report, I'm still on this</p> <p>15 page 3, let's see, sticking with paragraph 1 on the bottom</p> <p>16 of page 3, it says the team trained on large amounts of</p> <p>17 narcotics odor and they used blanks in the certification</p> <p>18 process. With that, that's referring to the ongoing</p> <p>19 training or --</p> <p>20 A. I'm sorry, go ahead.</p> <p>21 Q. Go ahead. Is that specifically in regards to the</p> <p>22 ongoing training that we were just talking about?</p> <p>23 A. I think if one reviews their initial</p> <p>24 certification and the ongoing training, you'll find that</p> <p>25 they use multi gram quantities in both circumstances.</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Okay. And from your either information -- your</p> <p>2 discussions with Stanley and your review of the records,</p> <p>3 did he use blanks in the ongoing training, excluding what</p> <p>4 happened at certifications?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Now do you know if in his ongoing</p> <p>7 training, if Stanley and Ciro did line-ups so that perhaps</p> <p>8 you would have a couple things that were presented that</p> <p>9 maybe one is a blank and one's a drug, do you know if he</p> <p>10 did that?</p> <p>11 A. Are you talking about having several hides in one</p> <p>12 place, like in a line, and some have narcotics in it and</p> <p>13 some don't?</p> <p>14 Q. Exactly.</p> <p>15 A. In other words, positive controls and negative</p> <p>16 controls or blanks in the -- in the same line-up?</p> <p>17 Q. Yes.</p> <p>18 A. I don't know the answer to that.</p> <p>19 Q. Okay, fair enough.</p> <p>20 Then I want to get into going to paragraph two.</p> <p>21 A. Well, just in response to that, that just</p> <p>22 previous answer, I have a -- a training report that is</p> <p>23 dated 12/16/2005, it's my page 38 and 39 of the 339-page</p> <p>24 PDF document. And here's a situation where, let's see, he</p> <p>25 had one room with 15 blank suitcases and one with the --</p>
<p style="text-align: right;">Page 20</p> <p>1 the positive training aid.</p> <p>2 And so, you know, without looking through the</p> <p>3 entire document, the answer to your question is yes, at</p> <p>4 least once.</p> <p>5 Q. Okay, great. Fair enough. Yeah, I certainly</p> <p>6 don't want you to go through 1,300 pages of records right</p> <p>7 now.</p> <p>8 A. It's your nickel. I'll do what I'm required to</p> <p>9 do, so.</p> <p>10 Q. Right. So I want to focus on a particular part</p> <p>11 of paragraph 2 there, sticking with your report on page 3,</p> <p>12 paragraph 2. It talks about that the dog team demonstrated</p> <p>13 non-alerts to circulated paper currency when training in</p> <p>14 public places such as auto dealerships, auto repair shops,</p> <p>15 the local JAARS Mission retail shop.</p> <p>16 So is that something you gathered from going over</p> <p>17 the training records or the dog records?</p> <p>18 A. I believe that information was revealed through</p> <p>19 my telephone interview with the K-9 handler.</p> <p>20 Q. Okay. And could you provide more information</p> <p>21 about those non-alerts to the circulated paper currency,</p> <p>22 how was it set up, et cetera?</p> <p>23 A. Well, look, I don't know the exact answer to the</p> <p>24 specifics of that question. But, you know, generally</p> <p>25 speaking, as I understood the -- the discussion, that when</p>	<p style="text-align: right;">Page 21</p> <p>1 this particular K-9 team would be training in a place or</p> <p>2 inspecting a place, you know, the K-9 is encouraged to</p> <p>3 check, you know, all of the, you know, objects, the things</p> <p>4 in his face, you know, when he's going around, you know, in</p> <p>5 the room or the building.</p> <p>6 And so, you know, the whole point of not alerting</p> <p>7 to circulated currency that's in, say, a retail</p> <p>8 establishment is that that's a real word scenario, you</p> <p>9 know. Either the odor is there or it's not, and either the</p> <p>10 K-9 alerts or he doesn't.</p> <p>11 So my information is that the K-9 was exposed and</p> <p>12 had the opportunity to inspect circulated currency on a</p> <p>13 number of occasions in a number of places and did not</p> <p>14 alert. And so that's one of the most important events in</p> <p>15 the history, you know, of a K-9 team and a K-9, you know,</p> <p>16 detection dog, per se, because that would -- if the K-9 did</p> <p>17 alert, then it may be a false positive or, you know, there</p> <p>18 may be some drug activity going on, you know, in the</p> <p>19 register.</p> <p>20 But, you know, generally speaking, circulated</p> <p>21 currency, you know, is just that, it's circulated currency.</p> <p>22 We would not expect the odor of methyl benzoate to be above</p> <p>23 the threshold for the K-9 to alert, so that's how that</p> <p>24 would be interpreted.</p> <p>25 Q. Okay. So am I understanding you correctly that</p>

<p style="text-align: right;">Page 22</p> <p>1 the information that you have is that he went to these  2 places to do some training and there was presumably some  3 cash on hand in the register, or what have you, at these  4 various places and then the dog didn't alert? Is that my  5 understanding correctly?  6 A. Well, I mean, it's as I'm stating it in my  7 report. That when this handler and this K-9 were training  8 in public places and, you know, doing whatever the training  9 protocol was for the day or the night, the K-9 had the  10 opportunity to inspect and alert to circulated currency  11 that would have been, you know, in plain view and, you  12 know, openly available. And, you know, the testimony of  13 the handler is that the K-9 did not alert.  14 Q. Okay. And for the record, you don't know how  15 much currency was on hand at any of these places at the  16 time the dog was there, correct?  17 A. I don't have that level of detail.  18 Q. Okay. So the last -- hopefully the last question  19 about training, because I could -- probably, as you know,  20 we go on and on about training in this type of stuff  21 because I find it fascinating. But as far as you know, has  22 this dog team ever been tested in a double blind,  23 controlled double blind situation for drug detection?  24 A. I don't know the answer to that.  25 Q. Okay. So I'm going to take a step back and just</p>	<p style="text-align: right;">Page 23</p> <p>1 speak generally about your experience now in terms of  2 testimony in cases.  3 How many times would you say that you've been  4 retained to testify as a drug dog detection deployment  5 expert?  6 A. Well, I would say less than a hundred.  7 Q. Okay. In that regard, have you ever testified  8 for the defense or are you always for the prosecution?  9 A. I'm not called by the defense. I'm called by  10 the -- by the state at the county level or the federal  11 level, the government.  12 Q. Always, right?  13 A. Well, you know, yes. That's who calls me. I've  14 not been called by the defense.  15 Q. Okay. So, yeah, maybe I should ask that question  16 a little bit better. So you've never been called by a  17 defense attorney to say, hey, I want you to testify for me  18 in this particular case?  19 A. Well, I think I've been called a few times to  20 explore, you know, my position on these issues. And, you  21 know, I give the same responses I'm essentially giving now.  22 And so, you know, then I guess that's the end of the  23 interview on the phone.  24 Q. Right, gotcha. So have you ever been approached  25 to testify and I'll say vouch for a drug dog team but you</p>
<p style="text-align: right;">Page 24</p> <p>1 declined to testify in their favor on behalf of the  2 prosecution, or the prosecuting agency, because the dog  3 team had inadequate training?  4 A. Well, look, I don't know -- I don't know the  5 answer to that question. The answer is perhaps. But I do  6 know that when there are inadequacies when I'm reviewing a  7 case, I point them out, you know, to whomever the -- the  8 person in charge is. And I -- I believe there have been  9 more than one time when a K-9 team did not certify because  10 the performance of the K-9 was inadequate or substandard  11 and had to go back for remedial training.  12 So, you know, either the team performs correctly  13 and they don't alert when there's no odor there and they do  14 alert when there is an odor there, you know, just on a  15 general basis, you know. If that doesn't happen, then, you  16 know, everybody's going to hear about it from me.  17 Q. But have you, in fact, told some dog handler or  18 prosecuting attorney, hey, this training, this  19 certification's no good, I'm not going to vouch for this  20 dog, have you ever done that?  21 A. Again, I don't know specifically that -- that  22 I've done that. But when there are inadequacies and, you  23 know, there are inadequacies from time to time, you know,  24 team to team, agency to agency, I point it out, you know,  25 right away because, you know, I'm not going to get stuck on</p>	<p style="text-align: right;">Page 25</p> <p>1 the horns of that dilemma, you know.  2 Q. And with that, if -- if that were the case, you  3 said it's been a couple times, would that make it into your  4 written report if there was one?  5 A. Look, generally speaking, when, you know, there's  6 a deficiency that's serious enough for me to -- to say  7 that, they've got to go back and restructure their training  8 program and they have to re-evaluate what they're doing.  9 So, you know, that's the way it works. I'm not going to  10 testify about the reliability of a detector team if the --  11 the K-9 is inadequate or substandard or giving false alerts  12 so, you know.  13 Q. And are you saying that that's happened, that  14 you've seen something bad and you're, like, tell them I'm  15 not going to testify, has that happened?  16 A. Hey, look, I'm not -- I'm not putting a label on  17 it, you know, good, bad. I'm saying, you know, substandard  18 in the sense that the dog is alerting when it should not or  19 it's not alerting when it should. So when the dog is not  20 alerting when it should, okay, that's, you know, the error  21 is on the government and the, you know, the Defendant gets  22 a pass, right, if you will.  23 The most serious error, though, is when the dog  24 alerts and there's no odor there, okay. And so, you know,  25 that has to be taken care of right away.</p>

<p style="text-align: right;">Page 26</p> <p>1 Q. Okay. So the specific question I'm asking you, 2 though, is have you, in fact, seen that in a dog team and 3 told them that?</p> <p>4 A. I believe that -- that I have seen circumstances 5 where -- now this would be at some point in the, you know, 6 the K-9 team's history. It could be, you know, in the -- 7 in the initial training, it could be right after training, 8 it could be in ongoing training, or it could be in 9 deployment.</p> <p>10 But, look, you know, I'm not the only one that 11 sees this, right? I mean, everybody sees this if they're 12 running controls in the training of the K-9. So, you know, 13 I don't -- I don't get a lot of opportunity to see it. But 14 when I see problems, I point them out wherever it might be. 15 In initial training, in ongoing training, or, you know, in 16 the deployment.</p> <p>17 And so what I look for in deployment, and this is 18 really important, is I look to see, as I've done in this 19 case, if the K-9 is alerting to circulated currency in 20 public places, you know. Some teams train in banks where, 21 you know, there's usually a lot of circulated currency and, 22 you know, when they have access to the vault, right, so 23 there's a lot of stacks of currency in the vault and so on, 24 and so I look for that in every case</p> <p>25 Q. Okay. And you don't -- but you don't have any</p>	<p style="text-align: right;">Page 27</p> <p>1 specific recollection of any specific dog team that you've 2 said, right now as we speak, that, hey, go back to the 3 drawing board, you don't have any specific recollection 4 right now?</p> <p>5 A. I don't have a log of, you know, individual cases 6 where that's happened, you know. It comes up one case at a 7 time, you know. I do my thing, I communicate my opinions 8 and, you know, I finish the case and go on to the next one.</p> <p>9 Q. Okay. I'll move on.</p> <p>10 You're familiar with Dr. Kenneth Furton, correct?</p> <p>11 A. Yes, I am.</p> <p>12 Q. Okay. Could you describe your professional 13 relationship with Dr. Furton?</p> <p>14 A. So in 1993 I conducted the first experiment with 15 Metro Dade County K-9 dogs, you know, drug dogs to start 16 this line of research on, you know, what are they smelling 17 and how much is it that it takes for them to alert 18 regarding specifically cocaine.</p> <p>19 And, you know, I actually ran the first 20 experiment in the DUI lab that I was running at the time 21 after hours. And from that point on, the -- the research 22 question was interesting to myself but I needed more 23 resources, which I didn't have the resources. You kind of 24 need graduate students and rooms and equipment and funding 25 and so on.</p>
<p style="text-align: right;">Page 28</p> <p>1 And so I'd known Dr. Furton for, oh, I guess it 2 was the past few years, you know, regarding some other 3 chemistry questions and ideas. And so I approached him 4 with this idea to, you know, set up an experiment or series 5 of experiments to test to try to determine what the K-9s 6 are alerting to and how much it's required for them to 7 alert, you know, kind of the minimum threshold.</p> <p>8 And so my relationship with Dr. Furton was, you 9 know, academic, you know, research oriented, collegial, and 10 ongoing from, you know, about 1993 with this work to date.</p> <p>11 Q. Okay. And so the research that you were just 12 referring to with Dr. Furton, this research influenced your 13 opinion in this case, correct?</p> <p>14 A. Well, that research is -- is part of the basis of 15 my opinion. The other parts of the basis of my opinion are 16 my formal education, my formal training, and my formal 17 experience in the fields as I described at the beginning of 18 this deposition. So it's part of the several, you know, 19 pieces that would, you know, comprise my area of expertise 20 regarding detector dogs.</p> <p>21 Q. Okay, gotcha. So you mentioned I think you said 22 a threshold amount of, I don't know if you said methyl 23 benzoate or cocaine, but a threshold amount on paper 24 currency that would trigger a dog alert. Is that a fair 25 characterization of what some of the research uncovered in</p>	<p style="text-align: right;">Page 29</p> <p>1 your mind is?</p> <p>2 A. Well, it would be a threshold amount of methyl 3 benzoate under controlled conditions. And so that's 4 different, that's a different question and answer than, you 5 know, the amount of methyl benzoate on paper currency in 6 the field if you will.</p> <p>7 Q. That's a different question than in the field 8 because you're saying that the research didn't necessarily 9 emulate real world conditions?</p> <p>10 A. Well, it's that real world conditions don't 11 emulate research where one is able to control the important 12 variables. So, you know, one has to take into account the 13 variables that may be in play in the field, and the 14 research is an avenue of understanding to then carry the 15 knowledge forward into the field.</p> <p>16 Q. Okay. So tell me if this is -- if this is fair, 17 that there were at least kind of like two main parts of 18 some of the research that informs on your opinion in this 19 domain.</p> <p>20 One, you determined the time it takes for methyl 21 benzoate to dissipate from paper currency; and, two, you 22 determined the amounts of methyl benzoate that dogs were 23 alerting to in the lab, is that fair?</p> <p>24 A. That -- that's part of, you know, what goes into, 25 you know, the process of understanding this.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. Okay. So the part with the dogs where you</p> <p>2 basically had a number of dog teams, you exposed them to</p> <p>3 different varying amounts of methyl benzoate and perhaps</p> <p>4 there was also cocaine base that they were presented with,</p> <p>5 too, correct?</p> <p>6 A. Yes. It would be cocaine base, cocaine</p> <p>7 hydrochloride and methyl benzoate and some of the other</p> <p>8 constituents of illicit cocaine.</p> <p>9 Q. Okay. So what I'm getting at, or what I'm trying</p> <p>10 to get at, is that that research with those dogs that we're</p> <p>11 talking about, if I have -- the exhibits that I provided to</p> <p>12 you, if you look at Number 4, there -- there is a paper</p> <p>13 that was authored by Dr. Furton and you're on there as I</p> <p>14 guess a co-author at least, it's called Identification of</p> <p>15 Odor Signature Chemicals, dot, dot, dot, is that -- that's</p> <p>16 kind of a culmination of, or I should say, that's where the</p> <p>17 research with these dogs gets put on paper and published,</p> <p>18 correct?</p> <p>19 A. That's one publication. There's several</p> <p>20 publications and there's also many presentations that would</p> <p>21 include the scientific method, the experimental,</p> <p>22 protocol -- well, the hypothesis, the experimental</p> <p>23 protocol, the data, and the interpretation of the data.</p> <p>24 So, you know, there's a couple of different sources. But</p> <p>25 this is one of -- this is one of the publications that I</p>	<p style="text-align: right;">Page 31</p> <p>1 was involved in.</p> <p>2 Q. Okay. So what I'm trying to get to is when I</p> <p>3 look at this one, it talks about the Miami-Dade Police</p> <p>4 Department. The question I'm ultimately getting at is the</p> <p>5 data that's used in this paper, let's start with this</p> <p>6 paper, is from -- how many dog teams did you test in</p> <p>7 this -- for this paper?</p> <p>8 A. Well, for this -- for this single publication?</p> <p>9 Q. Yeah.</p> <p>10 A. Well, let's see -- let's see if that is detailed.</p> <p>11 Q. It looks like 15.</p> <p>12 A. Fifteen different K-9s in this experimental set,</p> <p>13 yeah.</p> <p>14 Q. Okay. So with those 15, were all those dog teams</p> <p>15 from the Metro Dade Police Department?</p> <p>16 A. I believe so. Let's take a look here. Maybe --</p> <p>17 let's see, if we go to page 7 of the document, maybe I need</p> <p>18 to correct my prior answer. It looks like we may have</p> <p>19 had -- they have 29 dog teams, so that would have been</p> <p>20 more. I don't have a finite number.</p> <p>21 But in exploring the issue of how many different</p> <p>22 dog teams over the years for these experiments, I believe</p> <p>23 that we're somewhere between 50 and 100 different K-9s that</p> <p>24 have been tested.</p> <p>25 And, you know, that information is contained in,</p>
<p style="text-align: right;">Page 32</p> <p>1 you know, these peer reviewed publications as well as the</p> <p>2 dissertation of the graduate students that worked on the</p> <p>3 project. So, you know, there's much more information. It</p> <p>4 looks like -- okay, so they only acknowledge Metro Dade,</p> <p>5 let's see.</p> <p>6 Well, yeah. Okay. Go to page 8 of 9 on the</p> <p>7 right-hand column. The middle of the first paragraph it</p> <p>8 says, "Overall, more than 120 field tests have been</p> <p>9 performed in a similar manner testing more than 28</p> <p>10 different detector dogs from 10 different local, state and</p> <p>11 federal agencies."</p> <p>12 So I think that's what's going to be the referral</p> <p>13 for what's on page 7 showing all the different K-9 detector</p> <p>14 teams. I think there's, again, 28, 29. I think 29 is the</p> <p>15 highest number. But that may be a conglomerate of, you</p> <p>16 know, several, you know, research sessions.</p> <p>17 Q. Okay.</p> <p>18 A. Yeah. That -- that would -- if you want, you</p> <p>19 know, finer granularity of that information, I would have</p> <p>20 to go research that for you, which I'll be happy to do.</p> <p>21 Q. Well, no. What I'm really trying to get at is I</p> <p>22 just want to make sure that with this data, and we're</p> <p>23 talking about maybe 29 dogs, you mentioned that there were</p> <p>24 other papers or presentations that happened on -- on this</p> <p>25 general subject, dogs alerting to cocaine on currency.</p>	<p style="text-align: right;">Page 33</p> <p>1 Was there more data than these 29 that are</p> <p>2 reflected in this paper that ended up in other papers or is</p> <p>3 this basically exhaustive of -- of the data you have in</p> <p>4 terms of experimenting on dogs to cocaine on paper</p> <p>5 currency?</p> <p>6 A. No, I don't -- I don't believe that this is</p> <p>7 exhaustive. I think there's a number of papers that are,</p> <p>8 you know, in the public domain. And, again, there are</p> <p>9 graduate publications. They're available through ProQuest</p> <p>10 for Master's thesis and PhD dissertations. I have not been</p> <p>11 asked to provide them. But if I am asked, I will</p> <p>12 diligently research all the graduate students that were</p> <p>13 involved in the project since 1994-ish and -- and provide</p> <p>14 them. Am I being asked to do that?</p> <p>15 Q. I don't think I want to have anything done like</p> <p>16 that on the spot. But I would --</p> <p>17 MR. BURCH: I mean, Ben, maybe you have a</p> <p>18 suggestion. But if there are -- if there is other</p> <p>19 data, if I could get pointed to the papers and the</p> <p>20 publications that could let me see that other data.</p> <p>21 MR. BAIN-CREED: I think it's all on ProQuest</p> <p>22 probably like Dr. Rose said. I mean, we don't have</p> <p>23 all that. If you want, you know, if he has a list of</p> <p>24 the people involved with these articles, it may</p> <p>25 actually be on the articles, all the authors</p>

<p style="text-align: right;">Page 34</p> <p>1 themselves, I mean, you know.</p> <p>2 That might -- but I think that's going to be a</p> <p>3 major undertaking for whoever goes and searches</p> <p>4 ProQuest. But, I mean, he can probably -- it sounds</p> <p>5 like Dr. Rose can fairly easily tell us like who</p> <p>6 helped write, you know, these articles.</p> <p>7 MR. BURCH: Yeah. Well, I mean, I'm not</p> <p>8 concerned -- I'm trying to think about the best way to</p> <p>9 do this. But I'm not really concerned with like the</p> <p>10 articles necessarily as I just want to know if there</p> <p>11 was other dogs, like if there's data. Because,</p> <p>12 well --</p> <p>13 MR. BAIN-CREED: Are you looking for the title</p> <p>14 dogs in all of these studies?</p> <p>15 MR. BURCH: Well, because -- like let me -- let</p> <p>16 me try to ask Dr. Rose maybe another question, maybe</p> <p>17 this will help clear it up.</p> <p>18 BY MR. BURCH:</p> <p>19 Q. Because if I have -- if you look at what's -- you</p> <p>20 did like an SPIE presentation at some point talking about</p> <p>21 this subject, correct, Dr. Rose, or Furton did?</p> <p>22 A. What type of presentation?</p> <p>23 Q. S-P-I-E. It's like a --</p> <p>24 A. Oh, SPIE, the SPIE journal.</p> <p>25 Q. Yeah.</p>	<p style="text-align: right;">Page 35</p> <p>1 A. Yeah, there's a couple of publications under</p> <p>2 SPIE. Dr. Furton and I have both given talks on this</p> <p>3 subject matter, Furton more than I over the last I guess</p> <p>4 from '90 -- again, '94-ish, you know, to date. And there's</p> <p>5 been a number of graduate students that have gone through</p> <p>6 the system and worked on the project. And, you know,</p> <p>7 again, I think I understand the question.</p> <p>8 You want to know what the total envelope is of</p> <p>9 the number of K-9 teams and their performance that have</p> <p>10 been tested regarding this issue if I understand your</p> <p>11 question.</p> <p>12 Q. Yeah. Regarding the specific -- sorry to</p> <p>13 interrupt. But regarding the specific issue of drug dog</p> <p>14 detection teams that were presented with methyl benzoate or</p> <p>15 cocaine on paper currency to determine what a threshold</p> <p>16 amount was.</p> <p>17 A. Right.</p> <p>18 Q. I just want to know that I have all of, if I can</p> <p>19 get it, all of the raw data in paper form or whatever.</p> <p>20 A. Right. So, you know, paper currency, I mean,</p> <p>21 there's a lot of research that was done with stainless</p> <p>22 steel boxes and -- and metal cans, not just paper currency,</p> <p>23 you know. The breadth of the research, you know, took us</p> <p>24 to ask and answer several different types of questions.</p> <p>25 But, again, if I'm tasked with, you know,</p>
<p style="text-align: right;">Page 36</p> <p>1 answering, you know, your question for the entire scope of</p> <p>2 the research that would have been put in writing in a</p> <p>3 formal way and, you know, thesis and dissertations, they're</p> <p>4 peer reviewed, they're reviewed by the faculty, so if I'm</p> <p>5 tasked with doing that, then, you know, I'll do it to the</p> <p>6 best of my ability.</p> <p>7 It's just that, you know, the two lawyers, you</p> <p>8 know, would have to come to agreement about, you know, what</p> <p>9 the -- what the scope is and who's going to pay for it for</p> <p>10 time and so forth.</p> <p>11 MR. BAIN-CREED: I think it's a pretty big</p> <p>12 hearsay kind of field where he's like reviewing other</p> <p>13 people's journals to tell you what other people said</p> <p>14 that they did that he wasn't involved in. I mean,</p> <p>15 maybe the solution is he tells you how many dogs have</p> <p>16 been involved in the studies in which he's been a</p> <p>17 co-author or something like that.</p> <p>18 MR. BURCH: Yeah. I mean, I think that's what I</p> <p>19 was getting after --</p> <p>20 MR. BAIN-CREED: Okay.</p> <p>21 MR. BURCH: -- I mean, the one. Because</p> <p>22 obvious -- yeah.</p> <p>23 MR. BAIN-CREED: That seems like a surmountable,</p> <p>24 you know, hill to climb for the dogs to study -- the</p> <p>25 amount of dogs in the studies that he's a co-author</p>	<p style="text-align: right;">Page 37</p> <p>1 on. Can you do that, Dr. Rose?</p> <p>2 THE WITNESS: Okay. So, all right, I have a</p> <p>3 better idea now of the -- the requirements. So, you</p> <p>4 know, I can, you know, to the best of my ability, look</p> <p>5 at the history of all of this work and answer, you</p> <p>6 know, a few fundamental questions.</p> <p>7 How many dog teams, you know, do we have data</p> <p>8 sets, you know, that are published? And they would be</p> <p>9 in some of the, like I say, some of the sources that</p> <p>10 we discussed. And then I could, you know, I can</p> <p>11 present that, you know, I could deliver that as a</p> <p>12 document or a series of documents that would have</p> <p>13 memorialized what you're asking.</p> <p>14 MR. BAIN-CREED: Ed, I don't want to tell you how</p> <p>15 to do your deposition, but do you think you could</p> <p>16 simplify the question for him such like, you know,</p> <p>17 that more than a hundred or less than 200, something</p> <p>18 like that?</p> <p>19 MR. BURCH: Yeah, that's what I was just going to</p> <p>20 ask.</p> <p>21 BY MR. BURCH:</p> <p>22 Q. So off the top of your head, do you think that</p> <p>23 there's a bunch of other dog groups that formulated the raw</p> <p>24 data of your own research?</p> <p>25 A. Well, you know, I was part of a group, right? I</p>

<p style="text-align: right;">Page 38</p> <p>1 was involved in this research for about 20 years one way or 2 another. So I believe that there was somewhere between 50 3 and 100 different K-9s. Now there may have been more than 4 one K-9 per human handler. But in terms of, you know, the 5 K-9, okay, I think, you know, that's a fair estimate right 6 now.</p> <p>7 To give you a firm number, I got to go back and 8 look through the historical records. Which, like I say, 9 I'll be happy to do as long as, you know, you two, you 10 know, come to some kind of agreement as to breadth and 11 depth and scope and time and so on.</p> <p>12 Q. Okay. And that's specifically with dogs, 13 cocaine/methyl benzoate and currency?</p> <p>14 A. Right.</p> <p>15 Q. Okay.</p> <p>16 A. I would not include, you know, amphetamine or 17 methamphetamine or any of the other narcotics. So it's 18 just cocaine and methyl benzoate.</p> <p>19 Q. Okay, gotcha. So I think -- well, let's table 20 that, and Ben and I can have a conversation after the 21 deposition or something because I don't want to take up our 22 time here. We'll figure it out or agree to not figure it 23 out.</p> <p>24 I think what I'll do is I'll focus my questions 25 that I'd like to ask then on just this Number 4, we have a</p>	<p style="text-align: right;">Page 39</p> <p>1 specific data set with maybe about 29 dogs that were used. 2 I'm going to ask my next set of questions just about this 3 specific experiment with these specific dogs that made it 4 in this paper. Does that make sense?</p> <p>5 A. I have Exhibit No. 4 open.</p> <p>6 Q. All right. So I just want to know about, confirm 7 a couple things. The dogs in this experiment, for you to 8 kind of get to the papers kind of conclusion about the 9 threshold amounts, they were presented with a single dollar 10 bill with varying amounts of substance on it, correct?</p> <p>11 A. Hang on, let me check the material in the method 12 section here. Okay. So it looks like the experimental 13 protocol of the testing for the -- the K-9s themselves, 14 this is on page, let's see -- well, yeah, it's page 5 of 9 15 on the left-hand column, it looks like the last paragraph.</p> <p>16 So this was an experimental protocol with steel 17 boxes with holes and containing one dollar denominations of 18 U.S. Currency.</p> <p>19 Q. Okay. Now are you aware of -- let's start with 20 your own research that you were involved in.</p> <p>21 Did you ever do any experiments with drug dogs 22 and stacks of currency that possibly had varying amounts of 23 cocaine on it?</p> <p>24 A. You're talking about bundles?</p> <p>25 Q. Yeah, instead of a single bill.</p>
<p style="text-align: right;">Page 40</p> <p>1 A. Bundles were used in with some of the teams doing 2 their training and certification. I don't know if it's 3 published, that I would have to search.</p> <p>4 Q. Now going back to the methyl benzoate -- and we 5 probably didn't even cover this because we just dived in 6 really quickly -- in your opinion, methyl benzoate is the 7 dominant odor of cocaine that dogs noses actually detect, 8 correct?</p> <p>9 A. Well, the evidence from the research shows that 10 that is true.</p> <p>11 Q. So you did -- I hope it's part of this paper 12 because that would make things easier. But you did an 13 experiment where you put varying amounts of methyl benzoate 14 on a dollar bill and you basically timed to see how long 15 that would take to dissipate, is that correct?</p> <p>16 A. That -- that was the evaporation study, yes.</p> <p>17 Q. Right, okay. Is that -- is that this paper or is 18 that another paper?</p> <p>19 A. I don't -- I don't see it here.</p> <p>20 Q. Okay.</p> <p>21 A. Let's see.</p> <p>22 Q. Maybe it's just referred to or something.</p> <p>23 A. Okay. The experimental data is on a different 24 publication. You want me to show it to you?</p> <p>25 Q. Or if you could just name it, name first the</p>	<p style="text-align: right;">Page 41</p> <p>1 title of the first couple words and year I'll probably -- 2 I'll probably know it.</p> <p>3 A. Okay. Well, it's this one right here 4 (indicating.)</p> <p>5 Q. Field and Lab, okay. Oh, yeah that's -- that's 6 my Number 12. Okay, I gotcha. All right.</p> <p>7 So in that one --</p> <p>8 A. Here's the experimental data right here.</p> <p>9 Q. Gotcha. So could you -- let's see, simply put, 10 you're putting different amounts of methyl benzoate on the 11 currency and finding out how long it takes to go away, is 12 that fair?</p> <p>13 A. Well, the interpretation of -- of this graph is 14 that the evaporation rate is very fast on the open and -- 15 and it's much slower for -- it's very fast in the open for 16 a single bill, it's very slow with a stack of bills because 17 the -- the important variable is total surface area that's 18 exposed for evaporation.</p> <p>19 So, you know, that would be the fundamental idea 20 for understanding how methyl benzoate, you know, may or may 21 not be present with, you know, one big stack of bills or 22 multiple stacks of bills. Then one would, you know, start 23 to understand that by calculating the total surface area 24 and relating that to, say, a single bill or group of bills 25 that were, you know, flat out on the open and able to</p>

<p style="text-align: right;">Page 42</p> <p>1 evaporate. So that's the -- the basic idea there.</p> <p>2 Q. All right. So going back to Number 4 with the</p> <p>3 study where you're talking about, more talking about the</p> <p>4 dogs alerting to different threshold amounts I guess I'll</p> <p>5 say it. But in that -- in that study, or I should say in</p> <p>6 that experience that underlies that paper, there was</p> <p>7 multiple dogs that were hitting on -- let me start.</p> <p>8 Ultimately you did conclude that the threshold</p> <p>9 amount that most dogs would hit on is one microgram of</p> <p>10 methyl benzoate, correct?</p> <p>11 A. One microgram?</p> <p>12 Q. Yeah.</p> <p>13 A. I think if -- if you look at the evidence, the</p> <p>14 evidence shows that we start to get somewhere in the</p> <p>15 neighborhood of 50 percent response, depending on the group</p> <p>16 of dogs, 50 percent of the group of dogs responding at one</p> <p>17 microgram and then you get close to 100 percent with 10</p> <p>18 micrograms.</p> <p>19 So there's a -- there's a range, you know,</p> <p>20 there's a threshold of olfaction. Some dogs are a little</p> <p>21 better at detecting smaller amounts; and other dogs, they</p> <p>22 need a larger amount in order to give a positive alert.</p> <p>23 Q. Okay. And multiple of the dogs in that</p> <p>24 experiment actually alerted on .1 micrograms, correct? Or</p> <p>25 at least I should -- let me rephrase it this way.</p>	<p style="text-align: right;">Page 43</p> <p>1 There were multiple alerts on .1 micrograms of</p> <p>2 methyl benzoate, correct?</p> <p>3 A. We'd have -- you'd have to go to the -- the</p> <p>4 section of the paper that had that data. I'd have to</p> <p>5 review that data.</p> <p>6 Q. Okay, no problem. Like I said, I don't want to</p> <p>7 make you dig through your papers. I'm just trying to get</p> <p>8 some context.</p> <p>9 A. Well, I think -- I think what, you know,</p> <p>10 prevailed throughout was, you know, the idea, you know, in</p> <p>11 the test -- the experimental protocol and the test methods</p> <p>12 that we use, okay, and so that -- that's very important to</p> <p>13 know that, you know, under the controlled conditions that</p> <p>14 we use, we found that 1 microgram of methyl benzoate</p> <p>15 appeared to be the threshold and then 10 was the -- was the</p> <p>16 amount in that experimental protocol where most of the</p> <p>17 detector dogs reliably alerted.</p> <p>18 Q. All right. So with methyl benzoate, is it -- do</p> <p>19 you agree with this statement that cocaine is constantly</p> <p>20 generating methyl benzoate?</p> <p>21 A. Well, that statement is partially true. Cocaine</p> <p>22 is constantly generating methyl benzoate when the</p> <p>23 conditions are ideal for that occur. And those conditions</p> <p>24 would include that the cocaine be in the base form, not the</p> <p>25 hydrochloride form; that there be a methylating agent</p>
<p style="text-align: right;">Page 44</p> <p>1 present.</p> <p>2 Like methanol, for instance, is a -- is a</p> <p>3 methylating agent, okay, and that the temperature and</p> <p>4 humidity be favorable for that chemical reaction to occur.</p> <p>5 So that would be the answer to your question.</p> <p>6 Q. Okay. I guess I just want to -- bear with me.</p> <p>7 Still sticking with this Number 4, Exhibit No. 4, that is</p> <p>8 your paper with the dogs and the methyl benzoate on</p> <p>9 currency, there's a line in there on page 9 --</p> <p>10 A. Okay.</p> <p>11 Q. -- and it says that most dogs alerted to a</p> <p>12 15-year-old gram of street cocaine. Do you remember that?</p> <p>13 A. That's on page 9?</p> <p>14 Q. Yeah, page 9. And it's on the first paragraph,</p> <p>15 four lines from the bottom of that first paragraph.</p> <p>16 A. Yes, I see that.</p> <p>17 Q. So if dogs are alerted -- they smell -- they</p> <p>18 detect methyl benzoate and a gram of street cocaine is just</p> <p>19 sitting there and it makes them alert because methyl</p> <p>20 benzoate is present, is that accurate?</p> <p>21 A. Could you say that again, please?</p> <p>22 Q. Yeah, let's see. Dogs alert to methyl benzoate</p> <p>23 in your opinion, and there's a 15-year-old gram of street</p> <p>24 cocaine hanging around that has generated enough methyl</p> <p>25 benzoate that most dogs are actually alerting to it, is</p>	<p style="text-align: right;">Page 45</p> <p>1 that -- that's accurate?</p> <p>2 A. Well, okay, the answer is partially. It appears</p> <p>3 from the evidence that methyl benzoate is the dominant odor</p> <p>4 that the K-9s are trained to alert to. So, in other words,</p> <p>5 if one takes a look at illicit cocaine and the odor profile</p> <p>6 that illicit cocaine has, illicit cocaine is manufactured</p> <p>7 in a clandestine way differently, depending on the</p> <p>8 clandestine laboratory, and the composition of the cocaine</p> <p>9 varies from lab to lab and even from batch to batch.</p> <p>10 So the odor profile varies from, you know,</p> <p>11 illicit batch to illicit batch. But, universally, methyl</p> <p>12 benzoate is found. So there are other odor, we call them</p> <p>13 odorants, there are other odor characters in illicit</p> <p>14 cocaine that may be associated with the K-9 being trained</p> <p>15 and alerting to the odor of cocaine, but methyl benzoate</p> <p>16 would then be the dominant odor.</p> <p>17 So there may be some secondary tertiary odors</p> <p>18 that they'll associate with methyl benzoate and go, ah, it</p> <p>19 smells a little different, but, you know, it's good enough,</p> <p>20 right? Because we smell the methyl benzoate and, you know,</p> <p>21 it's the right -- it's the right odor profile that the dog</p> <p>22 was trained to, okay.</p> <p>23 So in this case, you know, one gram of a</p> <p>24 15-year-old street cocaine sample, and I don't see that</p> <p>25 there's anymore detail here how it was stored, what</p>

<p style="text-align: right;">Page 46</p> <p>1 temperature, you know, if it was powder or rock or some 2 combination, so, you know, this would, though, confirm that 3 cocaine can have the characteristic odor of what the 4 detector dogs are alerting to, you know, if it's stored in 5 a manner that preserves the odor, you know. That's all 6 that's saying.</p> <p>7 Q. Okay. So the -- the paper we were talking about 8 earlier where you were -- what was that number, it was the 9 Field and Lab, Number 12, you determined that methyl 10 benzoate dissipates at a certain rate, I believe you said 11 like to below detectable levels in an hour and a half or 12 two hours or something like that, correct?</p> <p>13 A. Well, the evidence -- the evidence in that 14 experiment shows I think clearly, you know, what was 15 happening. On a single bill it shows within two hours, 90 16 percent of the amount that was put on the bill evaporated. 17 Where, depending if the methyl benzoate was placed on a 18 stack of ten bills or in between ten bills, the rate of 19 evaporation was much slower.</p> <p>20 Q. Right. So I guess I -- not from this case 21 necessarily, but I've heard you opine that dogs won't alert 22 to gen -- they wouldn't alert to currency unless it had 23 recently been in contact with cocaine because it's your 24 opinion that the methyl benzoate dissipates by an hour and 25 a half, two hours, is that fair that you -- that you hold</p>	<p style="text-align: right;">Page 47</p> <p>1 that opinion?</p> <p>2 A. Well, you know, without agreeing to some prior 3 testimony that I haven't had a chance to review, I guess I 4 would respond by saying that depending on the 5 circumstances, circulated currency that is innocent 6 circulated currency has been shown to not have the odor of 7 methyl benzoate, plus any other odor of illicit cocaine 8 that properly trained K-9s alert to.</p> <p>9 So if they're alerting, then that means that 10 there's enough odor present to trigger the alert in the 11 K-9. And, you know, based on what we know about the 12 physical chemistry of methyl benzoate out in the open on 13 currency, that recency is important, okay.</p> <p>14 So we would not expect circulated currency that's 15 been laying, you know, out in the open for, you know, weeks 16 and months to have enough odor for a properly trained K-9 17 to alert to. And I think, you know, perhaps that's the 18 prior testimony you're alluding to.</p> <p>19 Q. Okay, yeah. So the flip of that, though, is that 20 then, if I'm following you, if it's been kind of contained, 21 you might expect it to retain that odor, correct?</p> <p>22 A. Well, under certain circumstances and depending 23 on the container and the length of time and the temperature 24 and the humidity and those other variables we discussed, I 25 would expect the odor to be retained for a longer period of</p>
<p style="text-align: right;">Page 48</p> <p>1 time than, you know, currency that's not in a container. 2 But, you know, the whole concept of circulated 3 currency is, you know, is that it's in circulation and 4 it's, you know, not in a container, so that's the idea.</p> <p>5 Q. Okay, I gotcha. So I want to do -- I hope you 6 can bear with me on this one. I'm going to ask you to -- I 7 want to kind of wind -- do a long wind-up for a 8 hypothetical question based on getting into some numbers 9 with methyl benzoate, so I'm going to ask you to open up 10 what I've marked as Exhibit 15.</p> <p>11 A. Okay.</p> <p>12 Q. And I'll just tell you and everybody that this is 13 just -- this is just charts that I've had from other 14 briefing that I've done. And this basically takes the 15 numbers that are in the research of amounts of cocaine and 16 your own studies about the relationship to cocaine amounts 17 and methyl benzoate to kind of ultimately determine like 18 what a hypothetical amount of bills would be to have a 19 certain amount of methyl benzoate.</p> <p>20 So if we start from the beginning, that first 21 part I'm just going to ask you to kind of follow along with 22 me, and then I'm going to ask you at the end, you know, 23 like what's wrong -- is there -- do you agree or do you 24 disagree, do you take issues with something I've done in 25 this calculation let's say.</p>	<p style="text-align: right;">Page 49</p> <p>1 So if you start at that Roman Numeral I, I have 2 taken the numbers of these publications by Hearn, Oyler, 3 Jenkins, Zuo, and Negrusz, and those are -- maybe I should 4 start just by looking at that and saying those names.</p> <p>5 Do those mean anything to you if I told you those 6 were the authors of papers on this subject?</p> <p>7 A. Yeah. I'm familiar with, you know, the authors 8 that have published that work.</p> <p>9 Q. Okay.</p> <p>10 A. I'm familiar with the names.</p> <p>11 Q. Okay. So are you familiar with a paper by Jay 12 Poupko and others where he kind of did a review of the 13 publications on cocaine and paper currency and methyl 14 benzoate?</p> <p>15 A. Are you talking about the 2017 opinion paper?</p> <p>16 Q. Yes. And I have it -- I have it marked as Number 17 11 if you want to look.</p> <p>18 A. I guess if I know the date, I'm familiar with it.</p> <p>19 Q. Yeah, fair enough. So we're talking about the 20 same thing. So, anyways, I think probably these numbers 21 are laid out in that paper because it's a review paper.</p> <p>22 So is that your recollection of that paper?</p> <p>23 A. I reviewed the, you know, that opinion paper when 24 it first came out, yes.</p> <p>25 Q. Okay. So this -- so number one gives you</p>

<p style="text-align: right;">Page 50</p> <p>1 basically what these different studies have showed you,  2 gives you the amount of cocaine found in just circulated  3 currency, and they ultimately give you that, as I say  4 below, that the contamination was from .4 -- .14 micrograms  5 to 1327, which gives you a mean of 5.25 to 663.  6 You follow me so far, microgram amount?  7 A. That -- that's an incorrect statement.  8 Q. Okay. Tell me where I screwed up.  9 A. Well, a mean -- a mean is a single number, so  10 pick your mean. A mean doesn't have a range.  11 Q. Yeah. Well, actually, then let's just stick to  12 the -- the range being what they found is .14 to 1327  13 micrograms. Follow me?  14 A. Sure.  15 Q. Then we go to Roman Numeral II. And these  16 numbers of methyl benzoate and cocaine hydrochloride is  17 point .01 to .036% weight to weight, that's from your  18 study. Does that ring a bell or do you agree that that's  19 the weight to weight relationship?  20 A. I understand where you got the numbers from, it's  21 the interpretation of what the numbers mean. But, you  22 know, go ahead. We'll get to the question and then I'll  23 give you my answer.  24 Q. Yeah. You can lay into me and tell me how messed  25 up I am. But I just want to make sure you're following as</p>	<p style="text-align: right;">Page 51</p> <p>1 we go along.  2 A. Look, that's not -- that's not my -- that's not  3 my intention, you know, or goal. This is a fairly complex  4 area --  5 Q. Yeah.  6 A. -- that's interdisciplinary. And, unfortunately,  7 there's been a lot of miscommunication about this  8 information from other authors in the field. And perhaps  9 I'll have an opportunity here today to, you know, respond,  10 you know, in a meaningful way that will, you know, set the  11 record straight a little bit.  12 Q. Okay, great. Yeah. So if we go to number three,  13 we're just using those numbers of that percentage that we  14 got from your research and applying it to the numbers from  15 the different studies of what they found cocaine on the  16 circulated currency, and it gives you this, you know,  17 different varying microgram amounts for each of the  18 different studies that found cocaine on currency.  19 You follow me there?  20 A. Yeah.  21 Q. Does it make sense what I did there?  22 A. Sure.  23 Q. All right. And then we go to number four and  24 then we kind of fuse that all. And so if we follow that,  25 knowing that you have determined the threshold amount for</p>
<p style="text-align: right;">Page 52</p> <p>1 dogs to alert is one microgram of methyl benzoate and if we  2 take all those numbers that we just talked about, you have  3 as low as, looking at the Oyler, that you would only need  4 one bill to have enough methyl benzoate to the high of a  5 thousand bills or let's say 667 in the Hearn, for example,  6 okay, but there's a range, and it's a relatively small  7 amount of bills.  8 And so in this case, I want to say we had I  9 believe it was 12,000 and some odd bills that were seized  10 and alerted to. So tell me -- so let me -- how do I want  11 to phrase the question.  12 Do you disagree with that assessment that  13 potentially general circulation you would only need way  14 less than just than a few thousand that you would expect a  15 dog to alert given that amount of methyl benzoate that I've  16 gone through in this chart?  17 MR. BAIN-CREED: Ed, I'm just going to object to  18 the form because I'm not sure I understand where we  19 are in the Roman Numbers IV and V, and it looks four  20 refers to 15 dogs as opposed to 29. And, frankly,  21 could you just rephrase the question for all of us?  22 That would be my objection.  23 MR. BURCH: Sure.  24 BY MR. BURCH:  25 Q. Well, I think maybe ignore my commentary, Dr.</p>	<p style="text-align: right;">Page 53</p> <p>1 Rose. But did you follow me at least on the charts and to  2 how we got to this number that allows you to say that you  3 would only need 67 bills from the Hearn study to give you  4 the appropriate amount of methyl benzoate for an alert,  5 does that make sense?  6 A. Yeah. The -- the analysis here on these two  7 pages is, it's all wrong.  8 Q. Okay.  9 A. And for -- for a number of reasons, okay. The  10 first reason is that circulated currency is like a stream  11 of paper bills on a conveyor belt. And it's a different  12 population of bills, you know, every time the Fed takes in  13 the old beat-up, used currency and destroys it and then  14 puts new currency into circulation.  15 And so, you know, taking an outlier of 1327  16 micrograms, which, you know, that's probably visible  17 amounts of cocaine, okay, because that would be 1.3  18 milligrams, and, you know, that would be falling off in  19 chunks on a table. So although -- although it's been  20 measured and that's what they found, that's a rarity.  21 And this is -- this is a lesson in statistics.  22 This is how one outlier can skew the mean so that when the  23 mean is used to calculate, you know, other -- other  24 measurements and outcomes, it skews the results. What's  25 typically found on circulated currency are very small</p>

<p style="text-align: right;">Page 54</p> <p>1 amounts, okay, microgram amounts in single digits, maybe  2 double digits, okay. And so in the world of  3 reasonableness, then that's the number that has to be used,  4 okay. That's number one.</p> <p>5 Number two, what has to be determined in any  6 population of bills if -- if one is arguing that there is  7 prolonged presence of methyl benzoate odor because of  8 ongoing production of methyl benzoate from illicit cocaine,  9 then one has to show that the cocaine is cocaine based, not  10 cocaine hydrochloride. That's -- that's already been  11 established multiple times. That's not a disputed  12 scientific fact, okay.</p> <p>13 Then what would have to be shown is that these  14 bills, you know, were not exposed in circulation for any  15 great length of time because whatever methyl benzoate was  16 present would evaporate, you know, very quickly, okay.</p> <p>17 Then we talk about the amount -- the number of  18 bills that would be required with a given amount of cocaine  19 producing a certain amount of methyl benzoate, and that is  20 probably the most inaccurate calculation because the  21 production of methyl benzoate gas, because that's what the  22 dogs are smelling, they're smelling a gas, not a liquid and  23 not a solid, the production of methyl benzoate gas is  24 dependant in part on temperature and surface area, total  25 surface area of the bills that are exposed to the air,</p>	<p style="text-align: right;">Page 55</p> <p>1 okay.</p> <p>2 So if we take a look at -- if we use -- and I  3 did -- I did a little hand calculation here before the depo  4 I have on a worksheet. So if we take a look at my -- my  5 example is if every bill had one microgram on it, and  6 that's 12,147 individual bills, if each bill had one  7 microgram on it, okay, then that would be around 12  8 milligrams of cocaine. And that's assuming -- that's  9 assuming that the cocaine was all on the surface of the  10 bill, not imbedded in the interior of the bill.</p> <p>11 That's another variable, which you can have very  12 little on the surface of the bill and most of it on the  13 interior of the bill. But I'll give it the benefit of the  14 doubt and let's just say it's all on the exterior surface  15 of the bill, so that would give us about 1.2 micrograms of  16 methyl benzoate.</p> <p>17 So if -- if we had all 12,147 bills spread out on  18 a table or the floor, there -- there might be enough methyl  19 benzoate if all the cocaine -- if all the bills were  20 contaminated with cocaine and all the cocaine was on the  21 surface and all the cocaine was a base and -- and there was  22 enough methylating agent to produce methyl benzoate. So  23 you'd have to satisfy all of those prerequisites, okay, and  24 have it spread out, you know, all over the floor. But  25 that's not how this currency was found, this currency was</p>
<p style="text-align: right;">Page 56</p> <p>1 found in bundles.</p> <p>2 So let's take a look at bundles. So it takes --  3 it takes if we have 222 bills in a stack, there's about 29  4 square inches of surface area. So that gives us about 55  5 stacks, okay, of the 12,147 individual bills, or about  6 1,587 square inches, which gives us about 11 square feet of  7 surface area, okay.</p> <p>8 And then -- and then, let's see, 11 bills --  9 let's see, 11 bills gives us about 121 square feet of  10 surface area, times 11 bills is a square foot, times 11  11 square feet, so we get about 121 square feet of surface  12 area that would be required of the stacks, and that would  13 be approximately 90,000 square feet necessary of surface  14 area for one microgram per bill.</p> <p>15 And so it's just not possible for that small  16 amount of methyl benzoate, even if it were being produced  17 by cocaine base with the presence of a methylating agent  18 like methanol, okay, to cause the properly trained drug dog  19 to alert. So it just doesn't add up.</p> <p>20 When you take a look at the reality, you know, in  21 the field, you know, compared to the -- this is kind of a  22 patchwork quilt piecemeal assembly of facts, you know, from  23 one publication to another to another and not taking into  24 account these variables. So it just doesn't make -- it  25 just doesn't make, you know, any sense.</p>	<p style="text-align: right;">Page 57</p> <p>1 And if this were true, if this were true, you'd  2 have every drug dog in America alerting on every little bit  3 of paper currency that they come into contact with. I  4 mean, it would be an epidemic of false alerts. And in my  5 experience, I don't see that.</p> <p>6 <b>Q. So your notes, is it possible to -- normally if</b>  7 <b>we were all in the same room, I would just say let's burn a</b>  8 <b>copy and can we mark that as Exhibit 16?</b></p> <p>9 A. Well, what I have to do -- sure. In response to  10 your question, what I have to do is I have to finesse it a  11 little bit because I have some crossouts and some things  12 that aren't clear. So what I have to do is I have to turn  13 this into a more formal document, which I'll be happy to do  14 and -- and provide to you.</p> <p>15 MR. BAIN-CREED: Ed, Dr. Rose is writing a  16 rebuttal report, which we had planned to provide, that  17 will be fairly simple. But would that satisfy your  18 request?</p> <p>19 MR. BURCH: I mean, if it has the calculations.  20 Only because as he's talking, it's pretty fast and  21 it's got a lot of numbers I obviously wasn't able to  22 write down everything. So I just would like to see  23 the numbers that he's talking about.</p> <p>24 MR. BAIN-CREED: Yeah. I don't know if Dr. Rose  25 has just like a scratch sheet in front of him, if it</p>

<p style="text-align: right;">Page 58</p> <p>1 just has a bunch of numbers that he's crossed out. It  2 may not mean anything to you. But, you know, if Dr.  3 Rose doesn't consider it a draft report, then I'm  4 comfortable with him putting it up on the screen for  5 the court reporter to screen shot it if he wants to.  6 MR. BURCH: Okay.  7 THE WITNESS: Just in response, this is not my  8 final work product, and I haven't had time to label it  9 or proof it. But the concept is the same, that  10 there's not enough surface area in the stacks of bills  11 to provide enough methyl benzoate, as we've discussed,  12 for the K-9 to alert.  13 So, you know, what I'd prefer to do so this  14 doesn't work its way into the record is to, you know,  15 let me produce a final copy that's labeled, that's a  16 proper worksheet. So that way, you know, there's no  17 confusion that prevails upon the Court or anybody else  18 looking at this versus my rebuttal report.  19 MR. BAIN-CREED: Ed, do you -- I mean, would you  20 be satisfied if he affixed his, you know, cleaned up  21 copy of his sheet there to his rebuttal report?  22 MR. BURCH: Yeah, I think so. Like I said, as  23 long as I get the numbers and just so -- I didn't  24 scribble them down. You're saying he's going to  25 attach it to his rebuttal report and not as sort of an</p>	<p style="text-align: right;">Page 59</p> <p>1 addendum to the deposition?  2 MR. BAIN-CREED: Well, either way. I mean, we  3 can do it either way. I think he's got a paper there  4 that he's been going over and we would be sitting in  5 person, you know, going through these numbers with him  6 writing it out.  7 MR. BURCH: Yeah, okay. All right, that's fine.  8 MR. BAIN-CREED: I'll talk to him about it  9 afterwards and see, you know, just to help you make  10 sense of what he just said. I mean, it may be  11 something that's not helpful until you can actually  12 look at the transcript and then look at the piece of  13 paper, I guess.  14 MR. BURCH: Okay.  15 THE WITNESS: Yeah. And I have to label  16 everything so that everybody knows where the number  17 comes from, what the calculation means, and how I get  18 to the next step, you know. It's a show your work  19 kind of thing.  20 MR. BURCH: Okay. All right. Let's move --  21 that's fine, we'll do that and I'll wait for a --  22 MR. BAIN-CREED: Dr. Rose, just keep that piece  23 of paper and just talk about it with me after the  24 deposition.  25 THE WITNESS: Okay.</p>
<p style="text-align: right;">Page 60</p> <p>1 BY MR. BURCH:  2 Q. All right. Just a couple of follow-up questions  3 on all that, it was a lot.  4 You mentioned that essentially that the bills  5 would need to be spread out on the table. Is there some  6 published research that tells you that?  7 A. That was in the previous publication that we  8 discussed that showed the evaporation rate on a single bill  9 versus a stack of ten with the methyl benzoate put on top  10 or in the middle of the stack, that evaporation rate.  11 Q. That's what we have labeled as No. 12, and it's  12 Field -- Field and Lab, dot, dot, dot from '98, I think,  13 correct?  14 A. Yeah. On page -- page 5 of 7, figure three  15 describes that phenomenon.  16 Q. All right. And then the next question is when we  17 were talking about in the other paper the number four, the  18 identification odor paper from '02, I believe, we were  19 talking about 15-year-old gram of cocaine that was causing  20 dogs to alert.  21 Was there a methylating agent involved there that  22 contributed to the generation of methyl benzoate in that  23 gram, 15-year-old gram sample?  24 A. I don't know the analysis of that example.  25 Q. Okay. All right, let's -- let's move on a little</p>	<p style="text-align: right;">Page 61</p> <p>1 bit. That methyl benzoate is a heavy subject. It's like  2 the micrograms and everything sometimes gets my brain  3 scrambled. But let's move on to non-cocaine drugs.  4 Just -- well, do we have -- the dog in this case  5 was trained to alert to other drugs, correct?  6 A. That's my understanding, yes.  7 Q. And just dog alerts, you don't know which drug  8 he's alerting to, correct?  9 A. That's right. In this case, you know, there's  10 not a separate alert for, you know, each different drug.  11 So it's the same alert for all the drug odors.  12 Q. Okay. And is there any published research that  13 you know about that talks about the dominant odor of these  14 non-cocaine drugs? I'll just end the question there.  15 Do you know any published studies that talk about  16 what the dominant odor is of non-cocaine drugs?  17 A. I'm aware -- I'm aware that there's a line of  18 research that has investigated the odor signature of other  19 narcotic substances or illicit substances that K-9s will  20 alert to, but that's not my expertise for the purpose of  21 working this case.  22 Q. Okay. And one more follow-up on that.  23 Do you know of any research that talks about the  24 dissipation rates of those dominant odor chemicals of the  25 non-cocaine drugs?</p>

<p style="text-align: right;">Page 62</p> <p>1 A. Yeah. I'll give you the same answer, it's not 2 the subject of my expertise in this case.</p> <p>3 Q. Okay. And sorry to make this record, but do you 4 know of any studies of threshold amounts of these 5 non-cocaine dominant odors that would trigger a dog alert?</p> <p>6 A. Yeah, I'm aware of lines of research exploring 7 that question. But, again, not the purpose of my work on 8 this case.</p> <p>9 Q. Okay. So then I want to move on, I'm nearing the 10 end here. What time is it? All right, let me see if can 11 knock this out really quick.</p> <p>12 MR. BURCH: Is everybody okay if I can just kind 13 of plow through the last few minutes here?</p> <p>14 MR. BAIN-CREED: (Nods head.)</p> <p>15 BY MR. BURCH:</p> <p>16 Q. All right. Are you familiar with an organization 17 called I'm going to call it SWGDOG, S-W-G-D-O-G?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Are you a part of that organization or 20 were you?</p> <p>21 A. I was initially on that committee but then 22 withdrew.</p> <p>23 Q. When did you withdraw?</p> <p>24 A. Sometime after I was on the committee initially.</p> <p>25 Q. Do you know approximately what year?</p>	<p style="text-align: right;">Page 63</p> <p>1 A. No.</p> <p>2 Q. Were you on the committee in 2011?</p> <p>3 A. I don't -- I don't recall the dates.</p> <p>4 Q. Okay. Well, let me just cut to the chase then. 5 If you open up what I have marked as Exhibit 6, 6 are you familiar with that document?</p> <p>7 A. I may have seen it before.</p> <p>8 Q. Okay. So I notice that Dr. Furton is on here, 9 his name is on here as I guess presumably somebody who -- 10 it says he's a subcommittee chair. So the fact that you're 11 not listed, does that suggest to you that you were not part 12 of the subcommittee that had anything to do with writing 13 this?</p> <p>14 A. Yeah, it may -- it may be. Curiously, at that 15 time, it required a lot of travel for everybody to 16 actually, you know, leave their work and go someplace and 17 sit at a table and have these discussions. And, you know, 18 I -- I brokered, I mean oddly enough, online video meetings 19 to accomplish the goal because the traveling was an 20 interruption to my other professional activities, so that's 21 why I withdrew from the committee.</p> <p>22 Q. Okay. I'm sorry. Are you familiar with this 23 particular document, the substance of it?</p> <p>24 A. I may have seen it before. I mean, I don't have 25 this committed to memory, so I'd have to review it.</p>
<p style="text-align: right;">Page 64</p> <p>1 Q. Well, let me see how I want to do it. It's not 2 so long, it's two pages. But there's a couple things in 3 there, and I just want to get whether or not you agree with 4 the general concept. So I wonder if -- I mean, is it too 5 burdensome to ask you to read over it really quickly and 6 let me know when you're done?</p> <p>7 A. Here's the thing, why don't you just -- I'm 8 familiar with the standards that have been discussed and 9 promulgated. Why don't you just get to the part of 10 interest and I'll -- and I'll take a look at that 11 paragraph.</p> <p>12 Q. All right, that's fair. Let me -- the first 13 thing I'm kind of curious about is the gist of what this 14 is. Let me set this up.</p> <p>15 Lisa Lit out of UC Davis did this study. Are you 16 familiar with that study?</p> <p>17 A. Who is the researcher?</p> <p>18 Q. Lisa Lit at UC Davis?</p> <p>19 A. That name -- that name sounds familiar. That's 20 L-i-t-t, I think, right?</p> <p>21 Q. Yeah. So, no, just a single T.</p> <p>22 Anyway, Lisa Lit did a study with some other 23 people and published a peer review paper. Basically, a 24 bunch of drug dogs -- drug dogs and explosive dogs did an 25 experiment, and it showed that they were basically falsely</p>	<p style="text-align: right;">Page 65</p> <p>1 alerting when the handler believed that there was something 2 that the dog should be alerting to. So it's called, you 3 know, "handler beliefs affect working dog outcomes." 4 So the SWGDOG paper that we're looking at here is 5 just a critique of that study.</p> <p>6 A. Uh-huh.</p> <p>7 Q. So one of the main critiques is that they say we 8 don't really know if these dogs were well-trained because 9 training of dogs vary, so you shouldn't necessarily 10 extrapolate from these couple dozen dog teams to say that 11 this applies to all dog teams everywhere.</p> <p>12 Do you agree with that?</p> <p>13 A. Which section is it in this SWGDOG document?</p> <p>14 Q. Well, let me see. It's the very last -- very 15 last paragraph on page 2.</p> <p>16 A. Okay. Okay.</p> <p>17 Q. And so I'm just asking if you agree with their 18 critique that you shouldn't extrapolate from 18 dog teams 19 to say that that's going to -- their behavior is going to 20 say that every dog team in the world is going to do the 21 same thing.</p> <p>22 A. Well, I don't think I've ever suggested that the 23 performance of one team or 18 teams or 180 teams would 24 apply to every K-9 team on the planet. I think my position 25 is that every K-9 team has to prove their performance. And</p>

<p style="text-align: right;">Page 66</p> <p>1 the way that they prove their performance, you know, from  2 my point of view is to provide the documentation and the  3 testimony and the records of the K-9 team's performance on  4 an individual, you know, one-by-one basis.  5 I don't think that I've suggested at all in, you  6 know, either my report or my testimony today that some  7 other team's performance somehow predicates the performance  8 of, you know, the incident K-9 team in any given case like  9 this case.  10 Q. Yeah, okay. The other part of it is that I want  11 to just get your -- see whether you agree with the  12 sentiment on page 2 and it's the last paragraph, and I'll  13 just read the specific part that I'm interested in.  14 It says, "The failure to evaluate the proficiency  15 of the canine teams in a controlled blind setting at the  16 time of testing prevents scientifically valid conclusions."  17 Do you agree with that?  18 A. Okay. Where is that in the last paragraph on  19 page 2?  20 Q. Yeah. Oh, I'm sorry. It's page 1, but for  21 whatever reason it's marked as -- the stamp on the top is  22 page 2. So it's page 1 of the two-page document, last  23 paragraph about three lines down.  24 A. I see it. Let me read it, please. (Reviews  25 document.) So you're asking if I agree with that</p>	<p style="text-align: right;">Page 67</p> <p>1 statement?  2 Q. Yeah.  3 MR. BAIN-CREED: Ed, can you repeat the question  4 because I don't -- go ahead.  5 MR. BURCH: Yeah.  6 BY MR. BURCH:  7 Q. The statement is, "The failure to evaluate the  8 proficiency of the canine teams in a controlled blind  9 setting at the time of testing prevents scientifically  10 valid conclusions."  11 A. Okay. So, you know, look, I'm not sure, you  12 know, exactly what that means, you know. In my experience  13 locally here in Florida, you know, the K-9 teams would  14 undergo training and then certification or testing. And  15 during the testing phase, it was blinded. The K-9 handler  16 would not know -- a number -- a number of hides would be  17 set up, and the handler would not know which of the hides  18 had the blank, the negative control, you know, or the  19 positive control, the actual find.  20 So, you know, from that point of view, you know,  21 I'm in agreement that -- that the K-9 and the handler  22 should not know when they're being tested, they should not  23 know which is the blank and which is not the blank. I  24 mean, you know, for instance, we did a lot of work with  25 Florida Highway Patrol and that's how they did their</p>
<p style="text-align: right;">Page 68</p> <p>1 testing, that was their program.  2 Q. Okay. So to be -- so do you agree that -- well,  3 how do I want to put this. I'm only on my last couple of  4 question or two, so I'm trying to make sure I get it right.  5 So blind testing then -- well, you just defined  6 blind testing. So I guess my question is, you said  7 ideally, to be confident that you get really scientifically  8 sound conclusions with the dog alert, you want to know that  9 at least the dog handler doesn't know what or whether there  10 is something to alert to when evaluating an alert, is that  11 what I heard you say?  12 A. No, not -- not entirely. So, you know, I'm going  13 to have to give a -- a more than brief, less than very  14 lengthy answer on this one. You know, when training --  15 when training, you know, these -- these K-9s, you know,  16 initially the K-9s have to be familiarized with the odor  17 that they're supposed to alert to.  18 So initially they should be trained so that  19 whoever is handling the dog knows, okay, in that box you're  20 supposed to scratch it or sit down, okay, and the box next  21 to it they're supposed to ignore it and move on to the next  22 box, for instance, okay.  23 So the handler, or maybe it's the trainer, they  24 know initially when they're -- when they're familiarizing  25 the K-9 with the odor, okay, they know what the dog is</p>	<p style="text-align: right;">Page 69</p> <p>1 supposed to do so that they can correct the dog if the dog  2 makes a mistake. That's all part of the basic learning  3 process for the dog.  4 So then once the dog achieves proficiency in  5 identifying the positive odors and ignoring the negative  6 either the zero odors like the blank or some other odor,  7 you know, like -- like an old nasty basketball sneaker,  8 okay, then -- then they would go to testing.  9 And so testing then it could be unblinded or it  10 could be blinded. It could be a combination of both where  11 the team goes through an unblinded course of inspection and  12 detection and then sometime later, it could be a day, a  13 week or more, then they do a similar test but it's blinded,  14 okay.  15 And so the performance of the K-9 team should be  16 evaluated during all of these stages so that if the handler  17 makes a mistake, the handler gets corrected; and then if  18 the K-9 makes a mistake, the K-9 gets corrected, you know.  19 So with the appropriate, you know, correction.  20 Usually it's a pull off the thing and they don't  21 get a reward, you know, if they make a mistake. If they're  22 not making a mistake, then they get some type of positive  23 reward, verbal or a toy or both. So it just -- it just  24 depends.  25 But, you know, just to say well, it should all be</p>

<p style="text-align: right;">Page 70</p> <p>1 blind, otherwise the training, the certification is  2 invalid, that's not a true statement or a correct idea  3 about how, you know, training, you know, these dogs works.  4 You know, they're intelligent beings that have to go  5 through a process of learning and assimilating new  6 information. So, you know, they have to be shown how to do  7 it and then they have to be tested in how they're doing it.  8 Q. Right. So then what I'm hearing then is that you  9 wouldn't necessarily share that critique of the Lit study  10 or, let me say, you would want to be -- you would want to  11 be certain that -- well, no, I'm sorry. There's a lot of  12 double negatives in here.  13 I think I'll leave your answer as it is and I  14 think I don't -- I'll look through my notes real quick, but  15 that might be my -- my last question if you'd give me one  16 second. Okay, I do have one more question.  17 I believe that the paper talks about using  18 dual-trained dogs that were trained in drugs and  19 explosives, and they say that that's sort of problematic  20 for purposes of doing tests that ultimately gets published  21 and that you're going to extrapolate results therefrom.  22 So would you agree that, as a general  23 proposition, it's problematic to have a dual-trained dog if  24 you're going to be -- if you want to extrapolate some  25 results only about drugs in terms of the dog alerting or do</p>	<p style="text-align: right;">Page 71</p> <p>1 you think that that's not a problem?  2 A. I don't think I can answer the question the way  3 you posed it. I think it depends on the dog, it depends on  4 the training program. It depends, you know, on what  5 questions you're trying to get answered or what  6 extrapolations you're trying to make. So, you know, it  7 depends.  8 It's kind of a blanket -- you know, you're asking  9 for a blanket answer on a specific topic and I don't think  10 I can do that.  11 Q. Well, let me just as a -- I'll just bounce off  12 what they say and just get your -- get your interpretation  13 or your assessment.  14 A. Who is the "they" you're describing right now?  15 Q. I'm still on this SWGDOG, their critique of the  16 Lit study. And if I'm on the first page, at the very  17 bottom, second to the last -- third to the last sentence it  18 starts, I'm going to read it verbatim.  19 "The use of two dual-trained drug/explosive  20 canines described in this study as "certified" is  21 problematic. This is universally recognized as an unsafe  22 practice."  23 So give me your reaction to that sentence.  24 A. Well, I'm not sure grammatically what they mean,  25 that this is universally recognized as an unsafe practice.</p>
<p style="text-align: right;">Page 72</p> <p>1 Do they mean that training a dog to be dual-trained in  2 drugs and explosives or describing the K-9 team as  3 certified? So, you know, it's not clear.  4 The next sentence, you know, almost seems to  5 state and imply that because they didn't describe the  6 certification standard, that that was the unsafe practice.  7 So I don't know what that means, and that would require --  8 in order for me to answer your question more completely,  9 I'd have to go back to that Lit study, study it, and then  10 come back and address it based on your questions you're  11 asking me here.  12 Q. Okay, fair enough. I get it. Well, I don't have  13 anything else.  14 MR. BURCH: Ben, do you have follow-up?  15 MR. BAIN-CREED: I just have one question just  16 for the record here.  17 CROSS-EXAMINATION  18 BY MR. BAIN-CREED:  19 Q. And, Dr. Rose, just one question for me.  20 Did you read this SWGDOG, which is Exhibit 6,  21 paper or the study that it seems to be discussing, did you  22 read those in recent days in preparation for this  23 deposition?  24 A. I received it, but I did not study it or read it.  25 I was actually working on, you know, my own papers that I</p>	<p style="text-align: right;">Page 73</p> <p>1 published, so this I did not.  2 MR. BAIN-CREED: Okay. That's all I got, Ed.  3 MR. BURCH: All right. Well, thank you for your  4 time, Dr. Rose. I appreciate you answering my  5 questions, and that's all I have for this deposition.  6 THE WITNESS: Okay, thank you.  7 (The deposition concluded at 4:10 p.m.)  8  9  10  11  12  13  14  15  16  17  18  19  20  21  22  23  24  25</p>

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CERTIFICATE OF OATH

STATE OF FLORIDA )  
)  
COUNTY OF ST. LUCIE )

I, Deborah Carmela Dew, RPR, FPR in my capacity as a Notary Public of the State of Florida at Large, authorized to administer oaths on this 15th day of December, 2020, at 2:14 p.m., certify that STEFAN ROSE, M.D. appeared remotely and took an oath or affirmation for the purpose of giving testimony in this matter of: United States of America v. Approximately \$252,140.00 in U.S. Currency Seized from Darren Lennard Coleman on June 27, 2016 at Charlotte-Douglas International Airport, International Human Rights Commission and Robert Shumake

PERSONALLY KNOWN \_\_\_\_\_ OR PRODUCED IDENTIFICATION \_\_\_\_\_  
TYPE OF IDENTIFICATION PRODUCED: Florida Driver's License

Deborah Carmela Dew

DEBORAH CARMELA DEW, RPR, FPR  
Commission No.: GG128177  
Expires: August 21, 2021

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CERTIFICATE OF REPORTER

STATE OF FLORIDA )  
)  
COUNTY OF ST. LUCIE )

I, Deborah Carmela Dew, RPR, FPR and Notary Public of the State of Florida at Large, certify that the foregoing deposition of STEFAN ROSE, M.D., pages 1 through 73, was stenographically reported remotely by me and is a true and accurate transcription of said; and that a review of the transcript was requested.

I FURTHER CERTIFY that I am not a relative nor employee of any counsel, nor any of the parties in said suit, nor am I financially interested in the action.

DATED this 30th day of December, 2020, at Port St. Lucie, St. Lucie County, Florida.

Deborah Carmela Dew

Deborah Carmela Dew, RPR, FPR

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ERRATA SHEET

I declare under penalty of perjury that I have read the foregoing \_\_\_\_\_ pages of my testimony, taken on \_\_\_\_\_ (date) at \_\_\_\_\_ (city), \_\_\_\_\_ (state), and that the same is a true record of the testimony given by me at the time and place herein above set forth, with the following exceptions:

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U.S v. Darren Lennard Coleman  
Scientific Opinion  
Jay M. Poupko, Ph.D.  
December 3, 2020

The purported alert of the dog Ciro-handler drug detector team to \$252,140 US currency and cocaine-positive results by Ionscan 500DT of samples of said currency does not conclusively establish that said currency was directly and recently exposed to illicit cocaine and other controlled substances.

This opinion is based upon the following peer-reviewed, published scientific studies regarding the contamination of US currency in general circulation with cocaine and other controlled substances as well as established, internationally-accepted and required forensic drug testing standard procedures and quality control practices:

- 1) Several published studies demonstrate that between 67-100% of US banknotes in the general circulation are contaminated with cocaine and that the amount of cocaine present per banknote ranges from approximately 0.1 to over 100 micrograms (1). Based upon these studies, the average level of contamination is most probably several micrograms per bill. It is highly unlikely that this widespread contamination of circulated currency is a result of widespread direct contact of currency with illicit cocaine. It is, however, highly-probable that it is a result of either physical transfer of cocaine from relatively few banknotes that have come in direct contact with cocaine to other erstwhile uncontaminated banknotes or a result of transfer from contaminated currency counting machines to erstwhile uncontaminated banknotes. Nevertheless, there is a lack of data to definitively-distinguish between contaminated currency as a result of direct contact with illicit cocaine and currency that became contaminated as a result of contact with currency in direct contact with the drug.
- 3) The total number of banknotes in this case as documented by the bank deposit slip for the seized currency is 12,147 banknotes. Considering that the average level of contamination per banknote is several micrograms, it is reasonable to assume that \$252,140 of currency in general circulation contains a total of at least 15 milligrams of cocaine. A study by Furton et al. (2) reported that, on the average, illicit cocaine contains 0.01%-0.036% methyl benzoate, the purported signature odor of cocaine. Assuming the above, \$252,140 would contain a total of 1.5-5.2 micrograms of methyl benzoate. The same study reported that most of their drug detecting dogs alerted to as low as 1 microgram of methyl benzoate while 10% alerted to 0.1 microgram.
- 4) Studies demonstrate that cocaine constantly generates methyl benzoate (3,4). Therefore, there is no reason to assume that cocaine found on currency in the general circulation will cease generating methyl benzoate after a given period of time. Hence, methyl benzoate will be present and will not significantly dissipate as long as cocaine is present on the currency.
- 5) Studies demonstrate that unidentified, cocaine-associated volatile substances other than methyl benzoate, probably contribute to triggering a dog alert to cocaine (5). Therefore, it can not be assumed that alert to cocaine is solely dependent on the amount of methyl benzoate present.
- 6) There are two published studies (6,7) that found the presence of other controlled substances such as heroin, amphetamine, methamphetamine and marijuana-associated cannabinoids on US currency in general circulation. Approximately 10% of currency was contaminated with

cannabinoids present in marijuana, about 14% contaminated with heroin, 6% contaminated with methamphetamine and 2% contaminated with amphetamine.

6) There is no published data regarding the permeability of US banknotes and plastic packaging such as polyethylene wrapping material to: methyl benzoate, yet-unidentified, cocaine-associated volatile substances and volatile substances arising from other drugs that may elicit a purported positive test result. Therefore, there is no way to determine how much methyl benzoate and/or any other possible positive-eliciting substances were volatilized from the currency in this case.

7) There is a lack of universally-accepted, required quality control for the drug testing in this case for the following two reasons:

a) No positive controls containing varying amounts of cocaine were tested in this case. This is necessary to determine the sensitivity of this particular test. An appropriate positive control in this case would be currency contaminated with varying amounts of cocaine and/or other appropriate controlled substances. A particular test result generated without positive controls is not valid as there is no data to determine the minimum drug level (e.g. threshold) that will give a positive result. Thus, for example, it is not known whether the purported positive test result is due the presence of 1 nanogram, 1 milligram or 1 gram of cocaine, etc. on the currency.

b) No negative controls were employed in this test to exclude the possibility of a false positive result. An appropriate negative control would be lab-certified, drug-free currency which should test negative by the very same method used for testing \$252,140. Therefore, there is no way to rule out a false-positive test result.

8) Any non-specific, non-quantitative purportedly-positive field test requires confirmation by a reliable, specific laboratory chemical test (e.g. GC/MS). This is required to definitively identify controlled substances. It is universally-accepted that before employing and relying upon a given drug test it must first be validated by comparing the results with an already validated, established test method (e.g. GC/MS). Since there is no documented validation for this particular test, the results of this test may not be relied upon.

9) It is not scientifically-acceptable to rely upon tests performed in a single study carried out by only one group of investigators using a specific, small set of test animals under in a specific environmental setting to generalize about all other sets of test animals in all settings. Thus, Furton et al. (2) is the only peer-reviewed publication that has presented data regarding the lowest amount of illicit cocaine and methyl benzoate that could be detected by this test.

Furthermore, their observations concern a specific and relatively-small group of 11-14 drug detector dogs from the Miami-Dade Police Department in a particular environmental setting. Consequently, there is no scientifically-valid reason to extrapolate their findings to all drug detector dogs in all environmental settings.

10) The cocaine-positive Ionscan 500DT results of samples of the \$252,140 seized in this case do not conclusively establish that said currency was directly and recently exposed to illicit cocaine for the following reasons:

a) The Ionscan 500DT utilizes a technology called ion mobility spectrometry (IMS). The instrument as employed in the field is only capable of yielding qualitative results (i.e. the detection or lack of detection of an analyte such as cocaine). It is not capable of determining the quantity of an analyte such as cocaine present in a test sample.

b) IMS, as employed in the Ionscan 500DT, is a highly-sensitive technology capable of detecting the presence of an analyte such as cocaine at low nanogram levels.

In consideration of the above, it is highly-likely that the greater majority of US currency in general circulation known to be contaminated with microgram quantities of cocaine will test

positive for cocaine by Ionscan 500DT. Therefore, the cocaine positive Ionscan 500DT results of samples of the \$252,140 seized in this case do not conclusively establish that said currency was directly and recently exposed to illicit cocaine.

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- 7) Lavins, ES, Lavins, BD, Jenkins, AJ. Cannabis (marijuana) contamination of United States and foreign currency. *J. Anal. Toxicol.* 2004;28(6):439-442.

This scientific opinion and its bases is rendered within a reasonable degree of scientific certainty.

A handwritten signature in black ink on a light-colored, textured background. The signature is cursive and appears to read "Jay M. Poupko".

Jay M. Poupko, Ph.D.

December 3, 2020

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
CIVIL NO. 3:18CV646

UNITED STATES OF AMERICA,	)	
	)	
	)	
Plaintiff,	)	
vs.	)	
	)	DEPOSITION OF
APPROXIMATELY \$252,140.00 IN U.S.	)	
CURRENCY SEIZED FROM DARREN	)	JAY M. POUPKO, Ph.D.
LENNARD COLEMAN ON JUNE 27, 2016,	)	
AT CHARLOTTE-DOUGLAS INTERNATIONAL	)	
AIRPORT	)	
Defendant,	)	
	)	

On Monday, December 21, 2020, commencing at 8:03 a.m., the deposition of Jay M. Poupko, Ph.D., was taken via Zoom on behalf of the Plaintiff, and was attended by Counsel as follows:  
APPEARANCES VIA ZOOM:

J. SETH JOHNSON, ESQ.  
BENJAMIN BAIN-CREED, ESQ.  
Assistant U.S. Attorneys  
U.S. Attorney's Office  
227 West Trade Street, Suite 1650  
Charlotte, North Carolina 28202  
on behalf of the Plaintiff

EDWARD BURCH, ESQ.  
Law Offices of Michael & Burch, LLP  
One Sansome Street, Suite 3500  
San Francisco, California 94104  
on behalf of the Defendant



REPORTED VIA ZOOM BY: Mai-Beth Ketch, CCR, CVR-M  
ASHEVILLE REPORTING SERVICE

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<p>1 (Document LI2314)</p> <p>2 INDEX</p> <p>3 Stipulations . . . . . 3</p> <p>4 Direct Examination By Mr. Johnson . . . . . 3</p> <p>5 Certificate of Notary Public . . . . . 86</p> <p>6 EXHIBITS:</p> <p>7 Exhibit No. 1 Introduced . . . . . 7</p> <p>8 (Deponent's resume)</p> <p>9 Exhibit No. 2 Introduced . . . . . 19</p> <p>10 (Case materials reviewed)</p> <p>11 Exhibit No. 3 Introduced . . . . . 48</p> <p>12 (Deponent's report 12/3/20)</p> <p>13 Exhibit No. 7 Introduced . . . . . 57</p> <p>14 ("Critical Review" article, 2018)</p> <p>15 Exhibit No. 6 Introduced . . . . . 61</p> <p>16 (Jourdan article)</p> <p>17 Exhibit No. 5 Introduced . . . . . 73</p> <p>18 (Photographs)</p> <p>19 Exhibit No. 4 Deemed Marked . . . . . 85</p> <p>20 (Declaration of Oath)</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 PURSUANT TO NOTICE and/or Agreement to Take</p> <p>2 Depositions, the within Deposition was taken by me,</p> <p>3 MAI-BETH KETCH, CCR, CVR-M, a Notary Public as</p> <p>4 required in Rules 26 and 30 of the North Carolina</p> <p>5 Rules of Civil Procedure.</p> <p>6 STIPULATIONS:</p> <p>7 IT WAS STIPULATED AND AGREED by and between</p> <p>8 Counsel for the Plaintiff and Counsel for the</p> <p>9 Defendant that each question in this Deposition is</p> <p>10 deemed to be followed by an objection and that each</p> <p>11 answer or portion thereof is deemed to be followed by</p> <p>12 a motion to strike; and that the objections and</p> <p>13 motions to strike may be ruled upon by the presiding</p> <p>14 Judge at any hearing or trial of this cause,</p> <p>15 provided, however, that any objections as to the form</p> <p>16 of the question must be made at the time the question</p> <p>17 is propounded or else the same is waived.</p> <p>18 DIRECT EXAMINATION BY MR. JOHNSON:</p> <p>19 Q Good morning or I guess good afternoon there,</p> <p>20 Dr. Poupko. Could you please state your full</p> <p>21 name for the record.</p> <p>22 A Dr. Jay Poupko. It's spelled P-O-U-P-K-O.</p> <p>23 Q My name is ---</p> <p>24 A Middle initial M.</p> <p>25 Q My name is Seth Johnson, I'm an assistant</p>
Page 4	Page 5
<p>1 United States Attorney and I represent the</p> <p>2 Government in this case. Do you understand</p> <p>3 that? Dr. Poupko, are you there?</p> <p>4 A I'm having trouble hearing you.</p> <p>5 Q Sure. Can you hear me now?</p> <p>6 BY MR. JOHNSON:</p> <p>7 Ed, can you hear me?</p> <p>8 BY MR. BURCH:</p> <p>9 I'm hearing you fine, but it does look like</p> <p>10 there is sort of a slight video problem with</p> <p>11 Dr. Poupko.</p> <p>12 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:</p> <p>13 Q Dr. Poupko, can you hear us?</p> <p>14 A I can hear you now, yes.</p> <p>15 Q If it gets too bad we just might have you</p> <p>16 reconnect. I think that's happened before and</p> <p>17 that's how ---</p> <p>18 A Okay.</p> <p>19 Q We will try and forge on. So I think where we</p> <p>20 left it was I'm Seth Johnson, I'm one of the</p> <p>21 AUSAs on this case for the United States</p> <p>22 representing the Government. Do you</p> <p>23 understand that?</p> <p>24 A Yes.</p> <p>25 Q And you've been retained as an expert in this</p>	<p>1 case; correct?</p> <p>2 A Correct.</p> <p>3 Q And you've formed expert opinions in this</p> <p>4 case; correct?</p> <p>5 A Correct.</p> <p>6 Q And you've provided a report; right?</p> <p>7 A Yes.</p> <p>8 Q Have you ever been deposed before?</p> <p>9 A Yes.</p> <p>10 Q Can you repeat that, Dr. Poupko, you didn't</p> <p>11 come through.</p> <p>12 A Yes.</p> <p>13 Q How many times have you been deposed before?</p> <p>14 Dr. Poupko, how many times have you been</p> <p>15 deposed before?</p> <p>16 A Yes, I have been deposed before.</p> <p>17 Q How many times?</p> <p>18 A Oh, I don't really keep count, but I'm sure</p> <p>19 it's at least a hundred.</p> <p>20 Q So even though you're an old hat at it, I'll</p> <p>21 go over some of the basic ground rules. The</p> <p>22 first is you understand that your testimony</p> <p>23 here today will be under oath; correct, under</p> <p>24 penalty of perjury, and that it could be used</p> <p>25 in ---</p>

1 A Yes.

2 Q --- front of the judge or jury just as if you

3 were testifying live in court?

4 A Yes.

5 Q You're doing a good job of this so far, but

6 especially now because there's kind of a lag

7 with a cross-Atlantic connection, let's try

8 not to speak over each other, and wait till

9 the end of a sentence and answer before the

10 other one starts talking; fair enough? And

11 along those lines, the court reporter can't

12 take down head nods or huh-uhs or uh-huhs, and

13 again it's going to be particularly hard here

14 where you know, we won't be able to tell

15 whether there's just an Internet lag or you

16 didn't answer. So if you could give a verbal

17 answer to every question, that would be very

18 helpful; fair enough?

19 A Okay. You're cutting out from time to time.

20 Q And along those lines, if you don't understand

21 a question I ask or can't hear a question I

22 ask, feel free to ask me to ask it again and

23 I'll rephrase it, and I'll do my best to

24 clarify it. Fair enough?

25 A Okay.

1 A It's the study of drugs, medicines,

2 pharmaceuticals, controlled substances.

3 Q What did you do your dissertation on?

4 A Sorry, I didn't hear you.

5 Q What did you do your dissertation on?

6 A Actually it was in physiology; it was on the

7 molecular development and changes in

8 chromosomal proteins associated with the

9 development.

10 Q You were breaking up a little bit there,

11 Dr. Poupko, associated with the development of

12 what?

13 A It was a physiology dissertation having to do

14 with the development, early development of the

15 embryo and the molecular changes that occur

16 during development.

17 Q Is that human embryos?

18 A No, it was actually frog embryo.

19 Q After you got your Ph.D., what areas of

20 research have you focused on?

21 A I did research in cancer, particularly

22 chemicals that cause cancer and toxic

23 substances, and that was at Columbia

24 University, at the Institute of Cancer

25 Research.

1 Q It's not an endurance contest. If you need to

2 take a break at any time just let me know and

3 we can do that. The only thing I would ask is

4 that if we have a question pending on the

5 table, you answer the question before a break;

6 fair enough?

7 A Sure.

8 Q Could you look at Exhibit 1, which is your

9 resume.

10 A Yes.

11 (EXHIBIT NO. 1 INTRODUCED)

12 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

13 Q You have a Ph.D.; correct?

14 A Correct.

15 Q Where is that from?

16 A Albert Einstein College of Medicine, that's in

17 New York, New York City.

18 Q What did you get your Ph.D. in?

19 A Well, officially my diploma says in medical

20 sciences. I was a graduate student at the

21 Department of Pharmacology so I listed that on

22 my resume as pharmacology because health

23 sciences or medical science is a very broad

24 area.

25 Q What is pharmacology?

1 Q After you left Columbia, what did you do?

2 A Well, my first academic position after --

3 Columbia was a postdoctoral fellowship. It's

4 similar to a doctor, someone who graduated

5 medical school and then does a residency, or

6 internship or residency. So you're not

7 totally independent, you work in someone

8 else's laboratory with a certain amount of

9 supervision. So after that, I got my first

10 position, academic position at the University

11 of Miami School of Medicine Department of

12 Pharmacology.

13 Q What types of research did you focus on while

14 at the University of Miami?

15 A It was in the field of toxicology.

16 Q After Miami, what did you do?

17 A Well, academically I did one year as a

18 visiting scientist at Tel Aviv University at

19 the Institute of Occupational Health, also

20 working in the field of toxicology,

21 particularly toxic substances in the

22 workplace.

23 Q I mean just simply put, would that be studying

24 people taking drugs in the workplace?

25 A Oh no, it's not -- no, not drugs. These are

1 various toxic substances that someone might  
 2 encounter as a result of their employment or  
 3 their work.  
 4 Q So things like asbestos, lead, stuff like  
 5 that?  
 6 A Yes.  
 7 Q Then after that what did you do in terms of  
 8 either research or employment?  
 9 A After that I took the position, a teaching  
 10 position, at Southeastern Osteopathic School  
 11 of Medicine where I taught pharmacology. Did  
 12 minimal research there.  
 13 Q Then take me through after that, what did you  
 14 do?  
 15 A After that I took a position at a drug testing  
 16 laboratory, North American Biologicals, and I  
 17 managed the department, the drug testing  
 18 department.  
 19 Q Was this like medical patient drug testing?  
 20 A This is testing for drugs of abuse.  
 21 Q Can you repeat that, Dr. Poupko. Dr. Poupko,  
 22 I didn't get your last answer, could you  
 23 repeat that.  
 24 A It was testing for drugs of abuse.  
 25 Q So to see if someone was abusing oxycodone,

1 Q So where were you doing consulting work?  
 2 A My consulting was in again the area of drug  
 3 abuse and alcohol.  
 4 Q What type of people, companies, organizations  
 5 were you doing consulting work for?  
 6 A Primarily attorneys. This was forensic work.  
 7 Q So were you serving as like an expert witness?  
 8 A Yeah, if need be. I was consulted and I would  
 9 write opinions such as in this case, and if  
 10 need be testify in a trial or a hearing.  
 11 Q Just give me kind of a broad overview of what  
 12 types of cases those were and what you were  
 13 specifically doing?  
 14 A Well, there were criminal cases, might be a  
 15 possession of controlled substance or  
 16 trafficking controlled substances. But most  
 17 of them I'd say over the years were civil  
 18 cases where, say, a vehicular collision, and I  
 19 was brought in to render opinion as to the --  
 20 to review the drug testing or the alcohol  
 21 testing, and then to render an opinion as to  
 22 what effect this would have on the person.  
 23 Q You mentioned there were some criminal cases  
 24 dealing with possession of controlled  
 25 substances. In those cases, what types of

1 something like that.  
 2 A I'm sorry, I didn't hear what you said.  
 3 Q Sure. So it would be like testing patient  
 4 samples to see if someone was abusing  
 5 oxycodone, something like that?  
 6 A Yeah, it wasn't necessarily patients, most of  
 7 them were employees or preemployment testing,  
 8 or drugs of abuse like cocaine and marijuana,  
 9 heroin, amphetamines, etcetera.  
 10 Q So drug screening both potential employees or  
 11 employees?  
 12 A Yes.  
 13 Q After that what did you do?  
 14 A After that I worked at SmithKline Beecham  
 15 clinical laboratories where I managed the drug  
 16 testing laboratory, again we did testing for  
 17 drugs of abuse. We also did testing for  
 18 alcohol and some other toxic substances.  
 19 Q Then after that what did you do?  
 20 A After that I started teaching part-time at --  
 21 well, there are two but I think it was a -- I  
 22 taught pharmacology at Barry University. Then  
 23 I taught anatomy and physiology and chemistry  
 24 at Broward Community College, at the same time  
 25 I started to do consulting work.

1 opinions would you be rendering?  
 2 A Well, there were some that were involved in  
 3 terms of determining the quantities of the  
 4 drug as I can recall. There were a number of  
 5 DUI cases, or sometimes called DWI cases.  
 6 Q Any other types?  
 7 A Within the criminal area?  
 8 Q Yes.  
 9 A That was the main -- those were the main types  
 10 of cases.  
 11 Q For the cases where you would determine the  
 12 quantities of the drug, how would you go about  
 13 doing that?  
 14 A On the few occasions I did that, I would go  
 15 into the laboratory, into the crime lab, weigh  
 16 the material, physical inspection of it.  
 17 Q Would the only type of ---  
 18 A Then there were cases like that came up --  
 19 sorry.  
 20 Q Go ahead, you finish your answer then I'll ---  
 21 A I was just going to say, and then I would say  
 22 starting in the late '80s there were cases  
 23 that I testified in that were forfeiture cases  
 24 such as this case, similar to this case,  
 25 currency forfeitures.

1 Q I would view those as kind of -- in the same  
2 category. Let's go back to when you went into  
3 the crime lab for determining the quantities  
4 of the drug, you mentioned that you would  
5 weigh the material and inspect it. Did you do  
6 any other type of testing on the narcotics  
7 material?

8 A I don't recall actually doing testing within  
9 the crime lab, myself, that was really open  
10 only to crime lab employees, but I may have  
11 observed the testing.

12 Q You mentioned after that you started rendering  
13 opinions in forfeiture cases. Could you tell  
14 me what types of opinions you were rendering  
15 in those?

16 A Primarily where a narcotics detecting dog  
17 alerted to a large quantity of currency.  
18 There were also some IONSCAN cases as well.

19 Q Similar to this case?

20 A Excuse me?

21 Q So similar to this case?

22 A Yes.

23 Q Do you have any experience with drug detection  
24 canines?

25 A I've had some experience with it, some studies

1 paper as well in the study because the initial  
2 results showed that dogs were alerting to  
3 currency that had not been in circulation,  
4 fresh currency, so we switched over to the use  
5 of plain paper other than currency, itself.

6 Q Did you put the currency and paper and like  
7 hide throughout the school and then have the  
8 dogs go find them; is that how it worked?

9 A They were hidden in the lockers. They were  
10 placed in the lockers and dogs were brought in  
11 one at a time and given the opportunity to do  
12 their thing, sniff and to alert, if they did  
13 alert.

14 Q So what did you use as I guess the control in  
15 that study?

16 A Well, the control ended up, you know, giving a  
17 false positive result. Control was fresh  
18 money that I received from the bank packaged,  
19 sealed. As I mentioned, it turned out that  
20 these dogs were falsely alerting to the money  
21 which was drug free. We just tested the money  
22 also using GC/MS, gas chromatography-mass  
23 spectrometry and indeed the money was negative  
24 for cocaine. So that's when we switched over  
25 to using plain bond paper.

1 that I conducted in Fayetteville, Arkansas,  
2 back in I believe it was the early '90s. I  
3 published a small publication on a pilot study  
4 I did with a group of dogs from the law  
5 enforcement there in Fayetteville.

6 Q Tell me about that study.

7 A Well, the question that I addressed was what  
8 is the detection level of a narcotics  
9 detecting dog, what is the sensitivity. What  
10 is the lowest level it can pick up, that was  
11 the original reason why the study was  
12 conducted.

13 Q How many dogs did you use in the study?

14 A I don't recall the exact number, but it was  
15 less -- maybe five dogs altogether, something  
16 like that.

17 Q I guess how did you do the study; what was the  
18 methodology?

19 A Well, you work together with the police there,  
20 with the narcotics detecting teams, of course  
21 the dog and the handler. And we actually set  
22 it up in a school that was not being used at  
23 the time, and we prepared spiked samples of  
24 currency spiked with cocaine, different  
25 amounts of cocaine. And we also spiked plain

1 Q Did the dogs alert to the plain paper?

2 A I'd have to check my notes on that. There was  
3 a lot of variability as I can recall, if I can  
4 refresh my memory from my publication in the  
5 General Forensic Sciences.

6 Q This study you're mentioning, is this the one  
7 that's listed on your resume as -- studies ---

8 A Sorry?

9 Q The study we've been discussing, you've got a  
10 study listed on your resume from 1994 as item  
11 12 in your publications entitled "Studies on  
12 Canine Specificity and Sensitivity for  
13 Detection of Cocaine on Currency." Is that  
14 the study we've been talking about?

15 A Yes.

16 Q Was that ever published? Was that study ever  
17 published, Dr. Poupko?

18 A Sorry, I'm not hearing you.

19 Q Sure. Was that study ever published?

20 A It was published in the proceedings -- I think  
21 it was the Society of Forensic Toxicology may  
22 have been a joint meeting with the  
23 International I think Forensic Toxicology  
24 Association.

25 Q Was that study ever peer reviewed?

1 A Yes, it's peer reviewed. In order to be  
2 accepted it had to be peer reviewed.  
3 Q Would you mind providing us a copy of that  
4 study?  
5 A Sure, I can do that.  
6 Q Thank you. So other than we were I think  
7 discussing generally your experience with drug  
8 detection canines, any other experience other  
9 than the study we've been discussing?  
10 A That's the one study.  
11 Q You've never been a canine handler; correct?  
12 A No.  
13 Q And you've never trained drug detection dogs;  
14 correct? You never trained drug detection  
15 dogs; correct?  
16 A No, I have not.  
17 Q Never worked with the certification of drug  
18 detection dogs?  
19 A No. I've read all the manuals but I have not  
20 directly worked with the certification  
21 process.  
22 Q If you could look at Exhibit 2, which is the  
23 Rule 26 materials in this case, or a document  
24 I guess that was produced.  
25 A Please hold on.

1 Q Did you review any other materials from this  
2 case in preparation for your report?  
3 A No. Since then I've reviewed some materials,  
4 but not before I wrote the report.  
5 Q What have you reviewed since then?  
6 A A transcript, I think they were depositions in  
7 a case called U.S. versus Lackey, and the  
8 deposition or testimony of a Sergeant Boltz,  
9 and the testimony of Dr. Lareau.  
10 Q But to be clear, these transcripts were  
11 something you reviewed after you prepared your  
12 report containing your opinions; correct?  
13 A Correct.  
14 Q So your opinions aren't in any way based on  
15 these transcripts; right?  
16 A My opinion is not based on these transcripts  
17 that I recently -- after I wrote the report.  
18 Q Do these transcripts impact your opinions in  
19 this case at all?  
20 A No.  
21 Q Then we do not need to talk about them. The  
22 drug detection canine in this case was named  
23 Ciro. Did you review any of Ciro's training  
24 records or certifications?  
25 A No, I was not furnished with that.

1 (EXHIBIT NO. 2 INTRODUCED)  
2 BY THE DEPONENT:  
3 Okay. Which document is that?  
4 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:  
5 Q Exhibit 2. It should start with case  
6 materials reviewed.  
7 A Okay.  
8 Q Are you there with me, Dr. Poupko?  
9 A Yeah, I'm looking for it. I'm having trouble  
10 finding it, hold on a minute please.  
11 Q Sure. Hopefully it's in the e-mail with all  
12 the other exhibits.  
13 A We got it, okay. So which exhibit are you  
14 referring to?  
15 Q Number two.  
16 A Okay.  
17 Q This Exhibit 2 was produced to us as  
18 containing some of the required information by  
19 Rule 26, and one of those categories is case  
20 materials reviewed; do you see that?  
21 A Yes.  
22 Q And it lists five things that you reviewed in  
23 preparation for your report in this case;  
24 correct?  
25 A Yes.

1 Q Do you have any opinions on Ciro's reliability  
2 as a drug detection dog?  
3 A I can't say I know how Ciro was rated as  
4 excellent, good, satisfactory or poor.  
5 Q The answer would be no you don't have any  
6 opinions on Ciro's reliability as a drug  
7 detection dog?  
8 A Insofar as what it's designed for no, as a  
9 field test, preliminary test no.  
10 Q Let me see if I can understand your testimony  
11 correctly. It sounds like you don't have any  
12 opinions about Ciro specifically, but maybe  
13 you do have opinions about field tests  
14 generally; is that fair?  
15 A Narcotic detecting dogs as a field test, yes.  
16 Q What are your opinions about the use of drug  
17 detection dogs as a field test?  
18 A Well, it's a good start I would say. It may  
19 point in a certain direction, which needs  
20 further testing. It's kind of like, let's  
21 say, I go to the doctor and I tell the doctor  
22 I think I have corona, you know. And he asks  
23 me well, why do you say that, and I say  
24 because I have a sore throat and I have a  
25 headache, and I'm feeling kind of feverish.

At that point can the doctor say that I have corona, obviously not. He may entertain the possibility and look further through, say, examination of the patient. And that would be sort of the next level to go. But ultimately only a definitive very specific test for corona would determine whether I'm infected with corona. So in the same sense, the dog is kind of like a patient who's going to the -- he's communicating, obviously not verbally, to the handler that perhaps there's something there and needs to be looked into further.

Q Thank you for that answer, let's break that down. In the beginning you mentioned that drug detection dogs can be a good start; why is that?

A Well, first of all, in drug testing basically the first thing you want to do is determine if the result is negative and then you just drop it at that. If it gives you what's called a presumptive positive, then you can go on to more specific and more sensitive testing.

Q So a drug dog would give you a presumptive positive.

A Yes. I say you know, it's something that

biological tech, using an animal to detect a drug, and we're talking about an animal presumably trained in order to detect drugs. But any biological system is very, very complex, and there's so many variables that would come to play as to whether or not, say, a canine will behave in a particular way. So that alone is not the same thing as a laboratory test where you have an instrument which has been basically certified, you've gone through all of the quality control. In the case of a dog you don't have that.

Q You would agree with me that drug detection dogs are trained for a specific number of substances; correct?

A I'm sorry, you said number of substances?

Q Sure. You'd agree with me that it can vary by dog, but generally drug detection dogs are trained for, you know, and certified for certain substances; right?

A Yes. Some of them are certified for more than one substance.

Q So a dog might be certified for cocaine, methamphetamine, marijuana and so on; three, four, five, however many substances that

merits looking further into this.

Q Just since a somewhat of a technical term, what do you mean by presumptive positive?

A Well, it may be positive. In fact, that term presumptive positive I think is not the appropriate term. I would say, you know, it's a preliminary result rather than using that term presumptive positive, because I don't think we can presume that it is positive at that point, the fact that a dog alerted to a particular object.

Q Why not?

A It's not what -- it's not a -- it's not specific enough and it's not sensitive enough. It's not -- it's not well controlled. It doesn't meet any of the criteria for drug testing, which I'm more familiar with, which require a lot of quality control in order to even arrive at that preliminary result.

Q Let's break that down. I think you first mentioned that it's not specific enough; is that right?

A Yes.

Q Why is a drug dog alert not specific enough?

A Well, we're dealing basically with a

particular dog is trained to look for.

A Yes. Depends on the training.

Q So what a dog alerts to is going to depend on its training and certification; right? Do you agree with that statement, Dr. Poupko?

A I didn't hear the full sentence, full question.

Q Fair enough. So what a drug dog will alert to is going to depend on its individual training and certification; right?

A Yes.

Q Let's say a drug dog has been trained to alert to four different types of drugs, and a drug dog alerts, then the presumption would be that he alerted to one of those four types of drugs; correct?

A Or more than one, we don't really know.

Q You don't know which of ---

A Or if there is very specific behaviors associated with alerting to each drug.

Q Absent that, you wouldn't know which of the drugs he alerted to, but you would know it would have been one of those; correct?

A Yeah, or no drugs at all, it's a false positive result.

1 Q Assuming it's not a false alert, it would be  
 2 one of the drugs he was trained on; correct?  
 3 A Yes. I mean it's -- unless you've got other  
 4 substances, but we're assuming that it's one  
 5 of the drugs the dog is trained on, one or  
 6 more.  
 7 Q Do you have any opinions on whether dogs alert  
 8 to substances they're not trained on?  
 9 A Honestly I don't know one way or the other. I  
 10 don't think that there's sufficient evidence  
 11 to be definitive about the ability of a dog,  
 12 any given dog, and certainly dogs in general  
 13 that are trained, narcotics detecting dogs, I  
 14 don't think that there's enough scientific  
 15 evidence to establish that it is a reliable  
 16 way of detecting a particular drug.  
 17 Q Other than the study we talked about earlier,  
 18 have you done any scientific study into that  
 19 area?  
 20 A Well, I published a paper about three years,  
 21 two or three years ago, which was a critical  
 22 review on the topic, which was published in  
 23 the Journal of Forensic Sciences, where I  
 24 review a lot of the studies.  
 25 Q In that paper did you just review other

1 A Correct.  
 2 Q So nothing -- we can forget anything about  
 3 sensitive one way or the other.  
 4 A I didn't address that.  
 5 Q Fair enough.  
 6 A Not in this deposition.  
 7 Q So let's go to -- sure. Let's go to your  
 8 opinion that a drug detection canine's  
 9 preliminary result doesn't meet any of the  
 10 criteria for drug testing; what do you mean by  
 11 that?  
 12 A I wouldn't say doesn't meet any, but it  
 13 doesn't meet the major criteria that are  
 14 needed in order for a test to be reliable. It  
 15 tests for the presence of a controlled  
 16 substance, field test.  
 17 Q Let's start with the criteria -- sure. Let's  
 18 start with the criteria that it does meet;  
 19 what criteria are those?  
 20 A It meets the criteria of the field test as I  
 21 said. It merits further investigation, that's  
 22 the way I view it.  
 23 Q What are the criteria of a field test; what do  
 24 you mean by that?  
 25 A Well, it should be sufficiently sensitive, be

1 people's studies? Did you conduct any study,  
 2 yourself?  
 3 A No, other than the one pilot study that I  
 4 mentioned, that I did, Fayetteville, Arkansas.  
 5 Q Earlier when you were talking about the  
 6 preliminary results that drug detection  
 7 canines can give, you mentioned that it's not  
 8 sensitive. Could you expound on that?  
 9 A I'm not sure, did I say sensitive or specific?  
 10 Q I wrote down that you said not specific, not  
 11 sensitive and doesn't meet the same criteria  
 12 as laboratory testing.  
 13 A That's correct, yes.  
 14 Q So let's take the not sensitive, what did you  
 15 mean by that?  
 16 A I'm sorry, I thought you said specific rather  
 17 than sensitive. Those are two different words  
 18 that have completely different meanings.  
 19 Q Sure. So I have that you had said kind of  
 20 three things it sounds like. You know, your  
 21 opinions about the preliminary result a drug  
 22 detection canine would be, would just be kind  
 23 of two part, it's A not specific and then B it  
 24 doesn't meet the criteria for laboratory drug  
 25 testing; correct?

1 able to pick up the presence of the substance.  
 2 That would be basically it, you know, some  
 3 degree of specificity but certainly not  
 4 meeting the criteria of specificity for drug  
 5 testing.  
 6 Q What would be the degree of specificity you  
 7 believe will be required for drug testing?  
 8 A You have to establish proper quality control  
 9 program which whenever you test for example,  
 10 for a sample you test also controls. And the  
 11 controls are two types of controls. There's  
 12 positive controls and there's negative  
 13 controls regarding specificity. The negative  
 14 control should not test positive, it should be  
 15 negative.  
 16 Q And presumably the positive control should  
 17 test positive?  
 18 A And the positive control should test positive,  
 19 yes.  
 20 Q Anything else in terms of establishing  
 21 control?  
 22 A Well, before you start out, you know, you have  
 23 to validate the test. That's the first thing  
 24 you need to do, and there's various things you  
 25 need to do for validation. You have to show

1 that the test, for example, is linear; that  
2 is, for a given response that you get, that is  
3 proportional to a certain amount of material  
4 that's there. So that we get into, you know,  
5 the ultimate determination, which is a  
6 quantitative test. It has to be quantitative  
7 and you have to establish that the test shows  
8 linearity.

9 Q And by quantitative you mean it gives you a  
10 specific numerical quantity of whatever you're  
11 testing for?

12 A It gives you a response which is proportional  
13 to the amount of material that you're testing  
14 for.

15 Q Essentially with quantitative you can tell how  
16 much; is that accurate?

17 A Yes.

18 Q And conversely qualitative would be just kind  
19 of a binary yes/no.

20 A Correct.

21 Q Would you say that drug detection dogs yield  
22 qualitative results?

23 A I would say yield preliminary qualitative  
24 results.

25 Q Why do you say those qualitative results are

1 preliminary?

2 A Because you haven't really established a  
3 specificity.

4 Q By that you mean what specific type of drug.

5 A Sorry?

6 Q By they haven't established a specificity you  
7 mean what specific type of drug the drug dog  
8 has alerted to?

9 A Not just what type, whether or not there is  
10 drug there at all.

11 Q I mean isn't that what ---

12 A This -- sorry?

13 Q Sure. Isn't that what qualitative results  
14 are, the drug is there yes or no?

15 A Sorry, I don't hear you.

16 Q Sure. You mentioned -- I believe you  
17 testified that drug dogs don't establish a  
18 specificity of whether or not the drug is  
19 there; is that correct?

20 A Yes, and whether the dog is falsely alerting  
21 or not.

22 Q Whether the dog is falsely alerting is  
23 different than whether the dog is giving a  
24 yes/no answer for whether or not drugs are  
25 there; correct?

1 A Well, that really speaks to whether or not  
2 there is drugs there or not. Because if the  
3 dog for example alerts to, for example, I'll  
4 give you the example of currency that has not  
5 been in circulation and certified to be drug  
6 free, and a dog alerts to that, you know, then  
7 that's a false alert. And obviously it hasn't  
8 met the criteria for even a qualitative test.

9 Q Well, it would give you an incorrect yes  
10 answer; right?

11 A For what it's worth, yes.

12 Q But that is still -- that yes answer is still  
13 a qualitative result; right?

14 A I wouldn't consider it a qualitative -- I  
15 wouldn't consider it any result at all.

16 Q So an incorrect result is no result at all?

17 A It doesn't really -- it doesn't really  
18 accomplish what you're trying to do. You're  
19 trying to determine is there drugs there or is  
20 there not drugs there. You take the control,  
21 a negative control, and the dog alerts to  
22 that, so obviously you have nothing.

23 Q The dog is still giving you a binary yes or  
24 no; correct?

25 A Yes, but it's incorrect.

1 Q Okay, and a binary yes or no result is a  
2 qualitative test; correct?

3 A That's correct, yes.

4 Q So regardless of whether the results are  
5 ultimately correct or incorrect, the dog is  
6 giving a qualitative result; right?

7 A Of a preliminary nature, yes.

8 Q That's what a field test is. Then you  
9 mentioned it's preliminary because of  
10 specificity; right?

11 A That's what -- that's one of the reasons, yes.

12 Q So with a dog alert that doesn't tell you  
13 anything more than what drugs the dog was  
14 trained on; right?

15 A If indeed it's, you know, an accurate result,  
16 yes.

17 Q Then the other reason you believe it's  
18 preliminary is it doesn't meet the kind of  
19 drug testing criteria we talked about earlier;  
20 right?

21 A Yeah, that's one of the criteria is establish  
22 the specificity so that you can rely on a  
23 positive result.

24 Q I guess what else other than the specificity  
25 makes a dog alert preliminary?

1 A You should also have -- you should also have  
 2 positive controls and be able to establish a  
 3 relationship between the response and the  
 4 amount of material in that positive control.  
 5 So you've got to basically establish your  
 6 sensitivity of your test, what's the lowest  
 7 amount that a dog will alert to for example,  
 8 for that particular dog in that particular  
 9 setting.

10 Q Anything else as to why you believe those  
 11 results are preliminary?

12 A As I mentioned before, we're dealing with an  
 13 animal, it's a biological test. It's not a  
 14 chemical test as you would do in a laboratory,  
 15 and there are numerous variables that can  
 16 affect the biological system, which you  
 17 wouldn't have in a chemical test in a  
 18 laboratory for example, or even outside the  
 19 laboratory.

20 Q What variables are those?

21 A Sorry, I didn't hear you.

22 Q What variables are those?

23 A Well, to begin with individual variability  
 24 from one dog to the next. Variability as far  
 25 as breed is concerned. Studies have shown

1 with the false alert, false positive, and that  
 2 if the dog was presented with a negative  
 3 control, let's say a dog alerts to currency,  
 4 right? A dog alerts to \$252,140 currency,  
 5 then you would need a control, which would be  
 6 currency which was certified to be drug free,  
 7 in the amount or at least the number of bills  
 8 amounting to \$252,140, and the dog -- the dog  
 9 should be able to differentiate, be able to  
 10 not alert to this drug-free currency. And  
 11 that would be of course in the exact same  
 12 environment that the dog is alerting to the  
 13 questionable currency.

14 Q So it's your opinion that for a drug dog alert  
 15 on \$252,140 in United States currency to be  
 16 reliable, then law enforcement would have to  
 17 go out get \$252,140 in U.S. currency, test it  
 18 make sure it's drug free, arrange it in the  
 19 same manner and place, and then deploy the dog  
 20 on both the U.S. currency at issue that was  
 21 seized and the currency that they obtained  
 22 that's clean; is that fair?

23 A Yeah. And of course, you know, it should be  
 24 very close in time to the dog being presented  
 25 with the currency that is in question. So

1 there is variability as far as dog alert with  
 2 respect to that. Other environmental cues,  
 3 there might be interfering stuff that might be  
 4 present in the environment. Any cues that the  
 5 dog may receive from its handler. There's so  
 6 many variables.

7 Q Do you believe that drug detection dogs can be  
 8 reliable?

9 A Sorry, you're asking me -- please repeat that.

10 Q Sure. Do you believe that drug detection dogs  
 11 can be reliable?

12 A My opinion ---

13 BY MR. BURCH:  
 14 Can I just put a quick objection on the record  
 15 is that asking for a legal opinion and then  
 16 you can go ahead and answer, Dr. Poupko.

17 BY THE DEPONENT:  
 18 So from a scientific point of view, there may  
 19 be potential for a drug detecting dog to be  
 20 reliable, but it would involve a lot more than  
 21 what's done in most cases.

22 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:  
 23 Q What do you think would be required for a drug  
 24 detection dog to be reliable?

25 A Well, again I'm more concerned at this point

1 everything's got to be pretty much, you know,  
 2 the same. And even, you know, the number of  
 3 bills is going to be important as well.

4 Q You mean ---

5 A And the denominations -- and the  
 6 denominations, well, that could also be a  
 7 backup as well.

8 Q Why would the denominations be a backup?

9 A There's some variability from studies, studies  
 10 show that certain denominations tend to be  
 11 more contaminated than others.

12 Q So essentially you would require an exact  
 13 match in terms of number of bills and types of  
 14 denominations between the two sets of  
 15 currency?

16 A Yes, that's the way it's done in drug testing.  
 17 That's the way we do it in the laboratory. We  
 18 run a control, then we run a negative control,  
 19 and it's subjected to everything that the  
 20 sample that we're trying to determine there's  
 21 drug there or not, it's subjected to. And  
 22 it's handled in the exact same way.

23 Q Let's say you're testing currency in the lab.  
 24 What do you use as the negative control for a  
 25 \$20 bill that you're testing?

1 A You've got to have currency that's not been in  
2 circulation. But even so, I supposed there's  
3 always a chance that somehow it got  
4 contaminated because we know that most  
5 currency in circulation, U.S. currency, is  
6 contaminated with cocaine for example. But it  
7 has to be certified as drug free and that  
8 would be your negative control.

9 Q So your I guess opinion for what would be  
10 required to establish a negative control with  
11 the drug detection canine would be the same  
12 for laboratory testing of currency,  
13 essentially equal counterpart that has been  
14 determined to be not in circulation and drug  
15 free?

16 A That's correct. It's the same principle  
17 essentially. It's drug testing regardless of  
18 the instrument. We're using the dog in this  
19 case as the instrument and we need to  
20 determine whether that instrument's response  
21 is reliable or not, particularly we're most  
22 concerned with a false positive result. But a  
23 false negative is also in drug testing.

24 Q Let's consider other scenarios. Let's say  
25 we're testing cocaine to see if cocaine, you

1 know, some white powder is cocaine. What  
2 would be the negative control for that?

3 A Essentially you'd have to -- you'd have to run  
4 something which is essentially in the same  
5 matrix, in the same media or matrix, which was  
6 certified to be drug free. Sometimes it's  
7 called a blank in the laboratory testing, and  
8 the blank is subjected to everything that you  
9 do for the sample that you're testing for. So  
10 if you extract it, you extract the blank as  
11 well, test it in the same way. You handle it  
12 all in the same way.

13 Q Well, that blank isn't cocaine; right?

14 A No, obviously not because it's a negative  
15 control.

16 Q So what would ---

17 A So for example, if you're testing urine you  
18 have to have a urine sample that is certified  
19 to be drug free or cocaine free. If you're  
20 testing blood same thing. You're testing  
21 saliva same thing, it has to have a control  
22 and a control that is basically handled in the  
23 same way.

24 Q So it's your testimony that for example a  
25 urine drug lab, whenever they test for the

1 presence of drugs they are also testing a  
2 clean urine sample as a negative control?

3 A No question. From my experience over the  
4 years in the various laboratories that I have  
5 served in as a manager, supervisor, certifying  
6 scientist, that's the way it's done.

7 Q Where are they getting all these clean urine  
8 samples?

9 A Well, they have to get urine -- they have to  
10 collect urine and then test it. And if it  
11 tests negative, then you can use it as a  
12 negative control. Sometimes it can be bought  
13 commercially, some companies sell a certified  
14 drug-free urine or blood or whatever it might  
15 be.

16 Q Well, if you test it and it tests negative,  
17 what if that was a false negative?

18 A If it consistently tests negative and you've  
19 certified it, it was certified before you  
20 started as negative, there's no reason to  
21 think that it's a false negative.

22 Q So you're essentially talking about like,  
23 let's say, I've got a toxicology lab and I'm  
24 testing urine drug samples, what you're  
25 talking about is previous tests that have come

1 back negative can serve as negative controls;  
2 is that right?

3 A Yes.

4 Q But those previous tests wouldn't be done, you  
5 know, one to one at the same time as the  
6 current sample at issue; right? They would  
7 have just been tests done in the past.

8 A You would certified the control, the negative  
9 control by testing it, and if indeed it tests  
10 negative you use it as a control. Then you  
11 would run it when you test your sample, that  
12 you want to know whether there is drug present  
13 or not. So coming into it, you've got to  
14 certify negative control.

15 Q So you would redo that essentially every time  
16 you tested the sample?

17 A Yes. Yes, that's very important.

18 Q I want to hop back to your resume. I think  
19 where we left off you had mentioned that you'd  
20 done some teaching work at Florida  
21 International and Southeastern College. I  
22 don't want to have to go through line by line  
23 every single teaching position that you've  
24 done, but are all the other teaching  
25 experience that you have listed on your

1 resume?

2 A Yes.

3 Q And kind of the subject matters are listed as

4 well; right?

5 A Yes.

6 Q So no type of kind of academic teaching that's

7 not listed here?

8 A Not that I can recall.

9 Q What is your current job?

10 A I'm a professor at Touro College located in

11 Jerusalem and I teach health sciences. I'm

12 currently teaching anatomy and physiology,

13 nutrition and human development, this

14 semester.

15 Q And in terms of your work experience, you

16 mentioned that I believe your resume lists you

17 were a quality assurance officer at Brooks Air

18 Force Base?

19 A Yes, I was a civilian employee of the Air

20 Force drug testing laboratory.

21 Q And you did that for about two years?

22 A Little over two years.

23 Q Can you tell me about that job, what did you

24 do specifically?

25 A Essentially my responsibility as the

1 that accurate?

2 A That was, yeah, the certifying scientist

3 aspect of it. Yes.

4 Q Did you ever operate the machines in the lab?

5 A Yes I did. In almost every laboratory that

6 I've worked in as either a manager or

7 supervisor or certifying scientist, I've

8 worked the instruments. I've also done

9 research using the instruments for new

10 procedures, put new procedures in place. And

11 I had to do some other general research in the

12 area.

13 Q What types of machines were those?

14 A Well, there's two types. It's a two-tiered

15 process. There's a screening which is an

16 immunological test which gives you a

17 preliminary result, and if it's positive then

18 it goes to be tested by gas chromatography-

19 mass spectrometry; we abbreviate that GC/MS.

20 And if it's positive -- it has to test

21 positive in both the screening and in the

22 confirmation which is GC/MS.

23 Q The preliminary screening, was that like a

24 dipstick in a cup; was that a desktop

25 analyzer? What type of preliminary screening

1 certifying scientist would be to review all

2 the results that were generated from the very

3 beginning that the sample was delivered to the

4 laboratory until given result was generated,

5 and to essentially sign off on it. So that

6 was the certifying scientist aspect. The

7 quality control officer was to institute

8 quality control procedures for the laboratory,

9 and to make sure that they were carried out

10 properly. I did also inspections, internal

11 inspections from time to time as well in the

12 laboratory.

13 Q For what types of tests were these?

14 A These were urine tests. These were Air Force

15 members that were tested for various reasons,

16 for a panel drugs of use such as cocaine,

17 marijuana, amphetamine, methamphetamine, LSD,

18 MDMA. I don't recall the full list, I

19 mentioned amphetamine, methamphetamine.

20 Q So Air Force service member would go pee in a

21 cup, that cup would get sent to the lab, that

22 would get tested and then you would look at

23 the results and make sure that they were --

24 and sign off as the certifying scientist that

25 the urine drug testing was done correctly; is

1 was ---

2 A No, it was an instrument, an analyzer was used

3 in immunological test to test for the drug.

4 And if it tested positive, then it would go on

5 to be tested using GC/MS as the confirmation.

6 Q Do you have any experience with the testing of

7 currency?

8 A Yes, I've tested currency for cocaine.

9 Q Could you tell me about that experience.

10 A Well, there was one currency forfeiture case

11 that I recall where I collected currency from

12 various banks and brought it back to the

13 laboratory and tested the currency for

14 cocaine.

15 Q What did you use to test the currency for

16 cocaine?

17 A GC/MS.

18 Q Any other experience testing currency?

19 A There were some other cases, but I can't

20 recall specifics.

21 Q Did you do the same type of methodology using

22 -- collecting the currency and then using

23 GC/MS?

24 A No, we didn't do a screening, went straight to

25 the GC/MS. Of course we had to extract the

1 bills, a methanol extraction, then a back  
2 extraction, then we took that extract and we  
3 analyzed it on the GC/MS.

4 Q Tell me about that, what does doing the  
5 extraction involve?

6 A You use an organic solvent that is able to  
7 extract out the cocaine which is on the  
8 currency, if indeed it's there. There are  
9 various solvents that you can use. As I  
10 recall we used methanol at least initially.

11 Q The IONSCAN that was performed in this case  
12 was done on a sniff detection IONSCAN 500DT.  
13 Have you ever operated one of those machines?

14 A Yes, I have.

15 Q How often?

16 A I've had maybe three or four occasions, and it  
17 was when I was at the military -- at the time  
18 I was stationed at Fort Sam Houston in San  
19 Antonio, so military police had an IONSCAN.  
20 And I was interested in determining --  
21 interested in testing currency in the general  
22 circulation for the presence of cocaine.

23 Q So when you were at Fort Sam Houston you used  
24 sniff detection IONSCAN 500DT to test for the  
25 presence of cocaine on currency in general

1 circulation?

2 A Yeah, I think it may have been an earlier  
3 model, maybe like a 400.

4 Q But same general type of machine?

5 A Yeah, essentially the same instrument.

6 Q Was that in furtherance of some research that  
7 you were doing?

8 A Yes. It was a research project.

9 Q Did that research project ever lead to  
10 anything that was published?

11 A No, unfortunately. As I said, three or four  
12 times I used the instrument in testing, and at  
13 some point, I think that the person that was  
14 responsible left and there was no further  
15 opportunity to use the instruments. So I  
16 didn't get very far with the research project  
17 because of that, ran into that difficulty.

18 Q You were using that to test for cocaine;  
19 right?

20 A Yeah, I was looking for cocaine.

21 BY MR. JOHNSON:

22 We've been going about an hour and a half,  
23 let's take a five-minute bathroom break.

24 (OFF THE RECORD)

25 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

1 Q Dr. Poupko, Exhibit 3 is your report in this  
2 case dated December 3, 2020. You have that or  
3 a copy of your report in front of you?

4 A Yes, I do.

5 (EXHIBIT NO. 3 INTRODUCED)

6 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

7 Q When you did your report two of the case  
8 materials that you mentioned you reviewed are  
9 the opinion of Dr. Lareau and the opinion of  
10 Dr. Rose, which were the Government's expert  
11 witnesses in this case; is that right?

12 A Yes.

13 Q Do you have any opinions on, let's take first,  
14 the opinion of Dr. Lareau?

15 A Yes, I do.

16 Q What are those opinions?

17 A I don't agree with his conclusions.

18 Q Could you be a little more specific?

19 A Well, he addresses the IONSCAN results and the  
20 IONSCAN is a preliminary test which needs  
21 further confirmation, for example by GC/MS.  
22 It is not quantitative. It was not designed  
23 to be quantitative, and what he attempted to  
24 do to make it quantitative is not acceptable  
25 scientifically.

1 Q Let's break that down. Why do you say it  
2 needs further confirmation?

3 A Well, again it is a preliminary screening test  
4 and to definitively determine the presence of  
5 drug a confirmation test is required, which is  
6 a quantitative test, meets all the criteria of  
7 a confirmation test.

8 Q Why is it your opinion that a confirmation  
9 test is required to definitively determine the  
10 amount of drugs on the currency tested?

11 A These are internationally accepted drug  
12 testing standards. Every drug testing  
13 laboratory has to conform to that.

14 Q Any other basis?

15 A Primarily it's not a quantitative test, that's  
16 the main issue, as I see it.

17 Q Why is the fact that an IONSCAN 500DT is not  
18 as you call it a quantitative test an issue?

19 A It goes to the issue of contamination of U.S.  
20 currency in general circulation with cocaine  
21 and some other drugs of abuse, so it would  
22 require at least as a starting point a  
23 quantitative test where you would have  
24 basically some of the quantitative data  
25 regarding currency in general circulation

1 versus the currency that you're testing, and  
 2 you don't have that here.

3 Q Is it your opinion that the IONSCAN used in  
 4 this case cannot distinguish between currency  
 5 in general circulation and currency that has  
 6 higher amounts of cocaine on it?

7 A Yes.

8 Q Why did you say it cannot distinguish between  
 9 them?

10 A Because I said it's not a quantitative test  
 11 and we know that most -- somewhere between  
 12 two-thirds and up to 90 percent plus of the  
 13 currency in circulation is contaminated with  
 14 cocaine, so a positive result on the IONSCAN  
 15 doesn't really answer our question whether the  
 16 currency was in direct contact with controlled  
 17 substances such as cocaine.

18 Q Is it your opinion that the IONSCAN in this  
 19 case gave the same result for each bundle of  
 20 currency tested?

21 A In terms of the -- in terms of the response or  
 22 the signal, there were differences in the  
 23 numbers, but those numbers do not correspond  
 24 to actual quantities of drug.

25 Q Why did you say that those numbers don't

1 really there, not quantitative.

2 Q Sure. Do you know what all was tested in this  
 3 case?

4 A Yeah, I have a list somewhere. I don't have  
 5 it memorized.

6 Q Sure, that's not a memory test. I'll  
 7 represent to you that what was tested was two  
 8 bundles of currency, four out of the six  
 9 plastic bags that the currency was contained  
 10 in the Nike, Air Jordan sneaker box that the  
 11 bags of currency were then placed in, and the  
 12 interior of the black roller bag suitcase --  
 13 all that was placed in. So I'm trying to  
 14 understand your opinion on what the IONSCAN  
 15 results show, and what I understand your  
 16 testimony to be is that for each of those  
 17 tests the IONSCAN tells you the same degree of  
 18 specificity as to the amount of cocaine.

19 A Specificity doesn't deal with amounts, it  
 20 deals with whether or not the drug is present  
 21 or not.

22 Q Well, specificity in just general common use  
 23 of the word that, you know, bundle of currency  
 24 one that is tested and bundle of currency two  
 25 that is tested, is it your testimony that the

1 correspond to actual quantities of drugs?

2 A Because it's not a quantitative test. It was  
 3 never designed to be a quantitative test, it  
 4 was a test to give you a yes or no answer, and  
 5 that's basically what it's supposed to do. If  
 6 it's done properly it will give you something  
 7 that will give you a yes or no answer within  
 8 certain parameters.

9 Q Did the IONSCAN in this case give a simple yes  
 10 or no answer for each bundle of currency  
 11 tested?

12 A If you mean yes in terms of, you know, a  
 13 certain -- exceeding, let's say, a certain  
 14 cutoff level that the instrument is set for,  
 15 the answer is yes, but it doesn't tell you  
 16 anything about the quantity of drug that is  
 17 present.

18 Q So it's your opinion that for each item tested  
 19 the IONSCAN gave the same answer in terms of  
 20 the level of specificity as to the amount of  
 21 the drug present?

22 A Again, you know, it's giving you a -- giving  
 23 you a response which is telling you whether or  
 24 not the drug is present, and it served that  
 25 purpose. But it doesn't tell you how much is

1 IONSCAN results tell you the same thing in  
 2 terms of the specific amount of cocaine on  
 3 each bundle tested?

4 A No, it doesn't give you a specific amount of  
 5 cocaine, just tells you whether or not cocaine  
 6 is there.

7 Q And my question to you isn't whether it gives  
 8 you a specific amount of cocaine. My question  
 9 to you is whether the IONSCAN results tell you  
 10 the same thing as to the specific amount of  
 11 cocaine on those bundles that were tested?

12 A I'm sorry, I really don't understand what  
 13 you're asking.

14 Q Sure. Can you look at the IONSCAN results for  
 15 bundle one and the IONSCAN results for bundle  
 16 two, and based on those results tell whether  
 17 or not there was more cocaine on, say, bundle  
 18 two than bundle one?

19 A That would be very difficult, and you would  
 20 have to -- it would have to be a quantitative  
 21 test and it's not a quantitative test.

22 Q I understand your opinion is that the IONSCAN  
 23 result is not a quantitative test as you ---

24 A It's not my opinion -- it's not just my  
 25 opinion, it's the manufacturer's opinion;

Dr. Lareau mentions it, that it's not a quantitative test. Well known, it's not a quantitative test.

Q Dr. Poupko, my question to you is a simple one. I'll ask you to listen to the specific question presented. Can you, looking at the specific IONSCAN results in this test, tell whether or not there was more cocaine on the second bundle tested than the first bundle tested, or vice versa?

A No.

Q Have you looked at the IONSCAN results of this test?

A Yes, I have.

Q Why do you say no?

A As I said before, it's not a quantitative test. It is not designed to give you a quantity, it just gives you a yes or no answer based on the parameters that the instrument is set up, which has to do with, you know, what is the cutoff; what's the minimum amount that would be considered to be a positive response. Over and above that no. It's like similar to as I described for the laboratory test, the two-tiered laboratory test, immunoassay

A Yes, as long as it's done properly, it's employed properly, the right procedures are done. For example, so make sure there's no contamination, environmental contamination, because it is a very sensitive instrument.

Q In this case, Dr. Lareau opined that the right procedures were done. Do you have any disagreement with that opinion?

A No. From what I've read, as far as the -- how it was actually done, I wouldn't -- I wouldn't have any problem with the conclusion that a particular sample was positive or a particular sample was negative.

Q So no issues here with how law enforcement used the machine and did the testing?

A No, no issues.

Q Let's look at your report. Do you have that in front of you?

A Yes.

Q In numbered paragraph one you start out with "Several published studies demonstrate that between 67 and a hundred percent of U.S. banknotes"; you see that?

A Yes.

Q Which published studies are you referencing

screening test, it's very similar to that in terms of just giving you a yes or no answer.

Q Do you have any other opinions on Dr. Lareau's report in this case that we haven't talked about generally?

A In general, that's my opinion that I've already expressed.

Q So just to wrap this up, your opinions on Dr. Lareau's report would be that you don't agree with his conclusion and that you know, the IONSCAN is not a quantitative test, and essentially what he's doing in terms of his conclusions isn't scientifically accurate; is that fair?

A I wouldn't disagree with everything that he said. I mean in terms of, you know, a positive test on an IONSCAN is a good screening, good preliminary result, although it should be confirmed by more specific methodology, which is quantitative. So I wouldn't disagree with characterizing the results, given result as positive or negative.

Q So you believe that IONSCANS can be reliable in terms of giving positive and negative results?

there?

A Well, actually I'm referencing a paper which was a critical review of all the studies. If you want to know all the studies, then you'd have to refer to my critical review called "Drug Contamination of Currency and Canine Alert," published in the Journal of Forensic Sciences in 2018.

Q If you will look at Exhibit 7.

A Yes.

(EXHIBIT NO. 7 INTRODUCED)

DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

Q Is this the paper that you're referencing?

A I'm sorry, what did you say, No. 7?

Q Exhibit 7, yes.

A Oh, Exhibit 7.

Q Correct.

A Okay. I believe so, yes.

Q And this is a paper by you, 2018, published in the Journal of Forensic Sciences, titled "Drug Contamination of U.S. Paper Currency and Forensic Relevance of Canine Alert to Paper Currency: A Critical Review of the Scientific Literature"; correct?

A Yeah. I can't take all the credit for it, I

1 mean there were two other authors. I was the  
2 primary first author. There was Dr. Hearn and  
3 Dr. Rossano.

4 Q This is a paper that you coauthored; right?

5 A Yeah. I was the -- I was the primary --  
6 primary author.

7 Q And in it you review I guess the published  
8 studies that were referenced in paragraph one  
9 of your expert report in this case; right?

10 A Correct.

11 Q So if we wanted to know like which specific  
12 studies you were referencing in paragraph one  
13 of your expert report, you would look to the  
14 journal article that's in Exhibit 7?

15 A Correct. If you -- there's a section that's  
16 called review and analysis of scientific  
17 literature on drug contamination of U.S.  
18 currency in that paper. Starts out with the  
19 first page and goes on to part of the third  
20 page.

21 Q So long and short of it is that topic would be  
22 discussed in this paper, and then there would  
23 be citing references, and you can kind of  
24 connect the dots there.

25 A That's correct.

1 physical transfer of cocaine from relatively  
2 few banknotes that have come in direct contact  
3 with cocaine to otherwise erstwhile  
4 uncontaminated banknotes, or a result of  
5 transfer from contaminated currency counting  
6 machines to erstwhile uncontaminated  
7 banknotes," as the general reason why there is  
8 currency contamination at a broad level; fair?

9 A Yes.

10 Q What do you base that conclusion on?

11 A Well, it's highly unlikely with all the U.S.  
12 currency in circulation, that all that  
13 currency has come in direct contact with  
14 controlled substances. Also, there's some  
15 evidence, some studies that have been done  
16 regarding the currency counters in banks that  
17 have shown to be contaminated with cocaine.  
18 You know, it's as I said highly probable that  
19 that's the mechanism. I mean we don't know  
20 definitively obviously, but it's highly  
21 probable. I can't think of another reasonable  
22 mechanism.

23 Q So it's either banknotes that have come in  
24 direct contact with cocaine; i.e., someone  
25 rolling up a bill and snorting coke would be

1 Q There's several other references to studies in  
2 your expert report. For example, paragraph  
3 four, "Studies demonstrate that cocaine  
4 constantly generates methyl benzoate." Is the  
5 same principle applicable here, that if we  
6 wanted to know what studies you're  
7 referencing, the studies would be the ones  
8 discussed in Exhibit 7?

9 A You're referring to a specific reference in my  
10 report, and if so, what number would that be?

11 Q Sure. Let's take for example paragraph four,  
12 numbered paragraph four.

13 A Okay. Yes, so there's references three and  
14 four specifically deal with that issue of  
15 methyl benzoate.

16 Q Gotcha. So if you use the kind of parentheses  
17 three and four or what's in the previous  
18 paragraph two, that's referencing the --  
19 specific references you listed in the expert  
20 report?

21 A Correct.

22 Q Gotcha. I want to get back to paragraph one  
23 of your report. You note that in the second  
24 to last sentence, you note, "It is, however,  
25 highly probable that it is a result of either

1 an example of that; right?

2 A That would be one example, yeah. Probably an  
3 extremely small percentage that are direct  
4 contact as you described. Then those  
5 contaminated bills come in contact with  
6 erstwhile uncontaminated bills, contaminate  
7 them.

8 Q Then you concluded there that "Nevertheless,  
9 there is a lack of data to definitively  
10 distinguish between contaminated currency as a  
11 result of direct contact with illicit cocaine,  
12 and currency that became contaminated as a  
13 result of contact with currency in direct  
14 contact with the drug."

15 A Yes, correct.

16 Q Could you turn to Exhibit 6.

17 A Which paper would that be?

18 (EXHIBIT NO. 6 INTRODUCED)

19 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

20 Q Exhibit 6, this is the Jourdan.

21 A Okay.

22 Q Are you familiar with that article?

23 A I have the paper here.

24 Q If you have it in a different form other than  
25 what's in Exhibit 6, that's fine too.

1 A No, it's the same one. I just need to -- I'd  
 2 like to get my copy of it.  
 3 Q Sure, that's what I meant, feel free to look  
 4 at your copy versus the electronic one labeled  
 5 Exhibit 6.  
 6 A Okay.  
 7 Q Do you have that paper in front of you?  
 8 A Yes.  
 9 Q Are you familiar with this paper?  
 10 A Yes. Actually, I write about it in my  
 11 article.  
 12 Q You anticipated my question. What is your  
 13 understanding of the conclusions in this  
 14 paper?  
 15 A First of all, he confirms -- the group  
 16 confirms that the very pervasive contamination  
 17 of U.S. currency with cocaine, testing many  
 18 samples over several years. And then he  
 19 proposes an algorithm which could be used to  
 20 potentially distinguish between the  
 21 contamination of currency in the general  
 22 circulation versus contamination as a result  
 23 of direct contact with drug.  
 24 Q So one of the things they do in this study is  
 25 they look at currency contamination across a

1 A You're talking about the Jourdan study?  
 2 Q Correct.  
 3 A Yes.  
 4 Q And I'll read to you from that abstract, they  
 5 note the extent of their cocaine contamination  
 6 was quantified by gas chromatography/mass  
 7 spectrometry or liquid chromatography/mass  
 8 spectrometry, and then he goes on, the level  
 9 of cocaine was determined and so on; correct?  
 10 A Correct. And by the way, as I recall, they  
 11 did use the IONSCAN as a screen, and what came  
 12 up positive they confirmed by GC, mass spec or  
 13 the liquid chromatography. So they didn't  
 14 rely on the IONSCAN alone, it had to be  
 15 confirmed.  
 16 Q So this study did the IONSCAN and then the  
 17 confirmation testing; right?  
 18 A Yes.  
 19 Q And they ultimately concluded to an average  
 20 level of cocaine contamination across  
 21 denominations in the country; right?  
 22 A Yes.  
 23 Q Then they also concluded that, and I'm quoting  
 24 from the abstract, "The levels of cocaine  
 25 contamination on currency submitted to the

1 lot of different denominations, across a lot  
 2 of different -- 90 different locations in the  
 3 U.S. over long periods of time; fair?  
 4 A Yes.  
 5 Q And then they kind of determine, specifically  
 6 they state in the abstract "the level of  
 7 cocaine contamination was determined to  
 8 average 2.34 ng per bill across all  
 9 denominations, one, five, ten, twenty, fifty  
 10 and a hundred"; correct?  
 11 A Yeah. They're referring actually to  
 12 superficial cocaine on the surface of the  
 13 bill. They didn't extract the bills.  
 14 Q What do you mean by superficial cocaine on the  
 15 surface?  
 16 A Cocaine that is on the surface that they can  
 17 remove with just swabbing or swiping. That  
 18 sort of sampling technique. It's a very small  
 19 percentage of the total cocaine in the bill,  
 20 probably on the order of about one-thousandth  
 21 of what's actually there.  
 22 Q So you'd agree with me that the Jourdan study  
 23 used either gas chromatography or mass  
 24 spectrometry, or the liquid version of that?  
 25 LC/MS or GC/SM?

1 Federal Bureau of Investigation laboratory in  
 2 criminal cases over the 1993 to 2001 time  
 3 frame had significantly higher contamination  
 4 than currency in general circulation";  
 5 correct?  
 6 A Correct. That's what they say.  
 7 Q That's what they conclude in their study;  
 8 right?  
 9 A Yes. Well, that's their observation.  
 10 Q And it sounds like your opinion is that this  
 11 study only picked up one one-thousandth of the  
 12 levels of the cocaine on bills; is that  
 13 correct?  
 14 A Somewhere, you know, in that neighborhood  
 15 because what we generally find is averaging  
 16 out maybe a few micrograms of cocaine per  
 17 bill, and this is, you know, a little over two  
 18 nanograms and nanogram is one-thousandth of a  
 19 microgram.  
 20 Q So I'm trying to understand what -- do you  
 21 think that study was inaccurate?  
 22 A No, I don't think it was inaccurate. It is  
 23 what it is, you know. It's an analysis of the  
 24 currency, rather extensive analysis of U.S.  
 25 currency in the general circulation. The

1 methodology is not the same methodology as all  
2 the other studies of contamination of U.S.  
3 currency in that it's only looking at what's  
4 on the surface essentially with the swiped or  
5 swabbed.

6 Q And it's your opinion that if Jourdan and  
7 company had looked at beyond what was on the  
8 surface, the levels of cocaine would be  
9 roughly a thousand times higher?

10 A Roughly yes, based upon all the other studies  
11 that have been done.

12 Q What studies are those?

13 A Those are the ones that I cited in my paper  
14 under that section we just discussed, review  
15 of analysis of scientific literature on drug  
16 contamination of U.S. currency.

17 Q So that would be the section of your paper  
18 that kind of starts on Page 1, then goes to  
19 Page 3?

20 A Correct, part of Page 3.

21 Q Let's turn to Paragraph 3 of your report. You  
22 note that "The total number of banknotes in  
23 this case as documented by the bank deposit  
24 slip for the seized currency is 12,146  
25 banknotes. Considering that the average level

1 of contamination per banknote is several  
2 micrograms, it is reasonable to assume that  
3 252,140 of currency in general circulation  
4 contains at least a total of 15 milligrams of  
5 cocaine"; right?

6 A Yes. Considering the number of banknotes.

7 Q Sure. Can you explain to me how you arrived  
8 at that conclusion.

9 A It's based upon the studies that we were just  
10 talking about, contamination of U.S. currency  
11 with cocaine, and overall the contamination  
12 levels a few micrograms of cocaine per bill.  
13 Multiply that by the number of bills and  
14 that's pretty much what you come up with, at  
15 least that number, at least 15 milligrams of  
16 cocaine in 12,147 bills.

17 Q Let's back that up. So in paragraph one you  
18 note that between 67 and 100 percent of U.S.  
19 banknotes in general circulation are  
20 contaminated with cocaine; correct?

21 A Yeah, I'm giving the full range. Most of the  
22 data points to a lot closer to 90 percent.

23 Q What percentage of the 12,147 banknotes in  
24 this case did you consider were contaminated  
25 when you arrived at that 15 milligram

1 calculation?

2 A Well, as I said, the 67 percent is really --  
3 is really an outlier and most of the data --  
4 in fact, I have a table in my paper which  
5 calculates all of the data on the  
6 contamination. Most of the data shows at  
7 least 90 percent contamination, most of the  
8 studies. I mean this is not -- I'm not saying  
9 a very specific amount, it's a general  
10 ballpark figure in terms of a minimum amount,  
11 at least 15 milligrams of cocaine.

12 Q Right, and I'm trying to understand how you  
13 got to that 15 milligrams. So did you -- I  
14 mean I guess as a threshold question, did you  
15 assume that a certain amount of the 12,147  
16 banknotes were contaminated?

17 A Assume 90 percent.

18 Q So you assume 90 percent. So for whatever  
19 number that would be, let's just -- I'm a  
20 lawyer and obviously bad at math, let's say  
21 that's 10,000. Then what level of cocaine per  
22 banknote did you assume in making that  
23 calculation?

24 A I don't recall the specific, it might have  
25 been five micrograms, might have been seven

1 micrograms. I think seven is probably the  
2 most reasonable number to go with based upon  
3 the studies, seven micrograms per bill. So if  
4 you had 12,147, multiply that by seven, that  
5 gives you 85,000 micrograms, which is 8500  
6 milligrams, so it's well above 15, at least  
7 15.

8 Q So that would be 8,500 milligrams?

9 A No, it would be 85 milligrams.

10 Q Eighty-five.

11 A In milligrams, yeah.

12 Q So then you ---

13 A Yeah, so even if it's 15 percent contamination  
14 it's still way above 15 milligrams in the  
15 total.

16 Q Then you take your -- you take that number and  
17 then you rely on a study by Furton and et al.  
18 regarding the amount of methyl benzoate in  
19 illicit cocaine; correct?

20 A The percent of methyl benzoate on a weight-to-  
21 weight basis in illicit cocaine.

22 Q And methyl benzoate is what generates the  
23 odor; correct?

24 A Well, it may be more than -- there may be more  
25 than one odorant that the dog alerts to.

1 There's some evidence to indicate that there  
2 may be some unidentified highly volatile  
3 substances that a dog alerts to besides methyl  
4 benzoate. But certainly methyl benzoate is a  
5 primary odorant that the dog alerts to.

6 Q It's a gas with an odor; right?

7 A It volatilizes, yeah, depending on the  
8 temperature. Some if it's released into the  
9 gaseous state, into the air.

10 Q Take me through that, how does it volatilize?

11 A Well, it has a certain vapor pressure and the  
12 substance will volatilize based on its vapor  
13 pressure and environmental factors. For  
14 example, if the temperature is high in the  
15 environment, it will be more likely to be  
16 volatilized.

17 Q So is this something that happens when the  
18 bill -- let's assume we're talking about  
19 currency that's contaminated with cocaine  
20 here. Is this volatilization of the methyl  
21 benzoate something that happens when the bill  
22 is exposed to the air?

23 A Yeah, it can -- basically yes, it's  
24 volatilized means it is exposed to the air to  
25 some certain extent.

1 methyl benzoate and it'll be generated at the  
2 same rate.

3 Q So eventually over time all the cocaine would  
4 break down and there wouldn't be any more  
5 methyl benzoate produced; is that right?

6 A Yeah, I don't know how many years that would  
7 take, but it's possible. Yes.

8 Q And it's your opinion that, you know, as long  
9 as the environmental factors stay the same,  
10 that kind of breakdown is done at the same  
11 rate?

12 A As long as there's cocaine there to generate  
13 the methyl benzoate, and the environmental  
14 factors are the same, it'll volatilize at the  
15 same rate.

16 Q Other than temperature, what other  
17 environmental factors influence the rate at  
18 which cocaine volatilizes?

19 A Humidity probably also is a factor, although  
20 if any it's a small -- it's basically a small  
21 factor. I mean it could also be environmental  
22 pressure, barometric pressure could influence  
23 the volatilization. It's kind of like water  
24 boils -- water will boil, let's say, at a high  
25 altitude at a much lower temperature than at

1 Q I'm just trying to understand, what triggers  
2 that? Is it exposure to air; is it something  
3 else? What's triggering this release of ---

4 A It's the nature of methyl benzoate. No, it's  
5 got a certain -- it's got a certain boiling  
6 point, certain physical characteristics. And  
7 as I said, depending on temperature it'll, you  
8 know, volatilize either more, less into the  
9 air. Some of it will be -- some of the  
10 molecules will be in the gaseous state as  
11 opposed to a liquid or solid state.

12 Q Does methyl benzoate volatilize at a constant  
13 rate?

14 A In certain environmental conditions it will  
15 volatilize yes, at a constant rate. But  
16 dependent on the environmental conditions.

17 Q So for example, if you had a bill that was in  
18 a, you know, wine cellar or some type of  
19 temperature-controlled room that didn't vary,  
20 it would throughout time always give off the  
21 same amount of methyl benzoate?

22 A Yes. I mean as long as there is some way to  
23 generate methyl benzoate. Methyl benzoate is  
24 a breakdown product of the cocaine. So as  
25 long as there's cocaine, there's going to be

1 sea level for example.

2 Q Any others?

3 A No, those would probably be the major ones.

4 Q If you could look at Exhibit 5, which are  
5 photographs of the currency as it was packaged  
6 in this case.

7 A Okay, I'm going to have to pull them out.

8 (EXHIBIT NO. 5 INTRODUCED)

9 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

10 Q Let me ask you this before you pull it out,  
11 Dr. Poupko, have you ever seen any photographs  
12 about how the currency was packaged in this  
13 case?

14 A In this case yes, I saw those photographs.

15 Q Just let me know when you have that up in  
16 front of you, Dr. Poupko.

17 A Yes, I have the exhibit. I have the  
18 photographs in front of me.

19 Q If you could turn to the third pdf page, you  
20 should see a picture of a plastic bag with  
21 some bundled currency inside.

22 A Yeah, I see the currency and I see plastic  
23 surrounding it. Looks like it's been torn  
24 open I believe. It's hard to tell.

25 Q Then pdf page four of that, similar things,

1 you see the currency stacked together in  
2 bundles; do you see that?

3 A Yes.

4 Q Does the currency's bundling have an effect on  
5 the amount or rate at which it emits methyl  
6 benzoate?

7 A I would expect it would have an effect, but I  
8 wouldn't be able to tell you how much of an  
9 effect it has. There's no studies really to  
10 speak of as far as these materials, whether  
11 plastic materials or even the stacking of one  
12 bill next to another bill, how will that  
13 affect the volatilization of methyl benzoate.  
14 There's just no data on that, that I'm aware  
15 of.

16 Q But you would agree with me that it would  
17 affect the rate at which it volatilizes?

18 A I would expect that it would, yes.

19 Q Both the bundling of the bills and the fact it  
20 was wrapped in plastic bags?

21 A Yeah, it depends on what you're comparing it  
22 to. I mean if you've got, you know,  
23 individual bills that are spread out without  
24 being bundled and without being packaged, you  
25 know, you would expect the methyl benzoate to

1 because as I said, there's a lack of studies  
2 on this. I was not able to find any studies  
3 on this issue.

4 Q Then I guess the second part of that you  
5 mentioned though, is that you know, the wider  
6 you would spread all these bills out, then  
7 essentially there would be more air that  
8 they're emitting methyl benzoate into, which  
9 would you know, I guess kind of be a bigger  
10 volume of air and therefore dilute the amount  
11 over a wider space; is that correct?

12 A Yeah. Yeah, it's kind of like, let's say, an  
13 air pollutant that's released into the air.  
14 So at the site of its release you expect that  
15 the concentration in the air would be very  
16 high. And as it dissipates further and  
17 further in the environment, the concentration  
18 is decreasing.

19 Q In your report your kind of initial conclusion  
20 is "The purported alert of the dog Ciro,  
21 handler, drug detection team to 252,140 U.S.  
22 currency and cocaine positive results by the  
23 IONSCAN 500DT of samples of said currency does  
24 not conclusively establish that said currency  
25 was directly and recently exposed to illicit

1 volatilize more readily, sort of  
2 configuration ---

3 Q So if I took the bills and laid them out one  
4 by one face up on a conference room table, you  
5 would expect that they would volatilize, you  
6 know, methyl benzoate more readily than if  
7 they're all bundled together; right?

8 A Yes. But you also have to consider that the  
9 concentration, air concentration, will be  
10 reduced as you increase the amount of surface  
11 area. So the more you spread the bills out,  
12 the more you get sort of a dilution factor in  
13 terms of there being more air space that the  
14 methyl benzoate is volatilizing in, or  
15 volatilizing to.

16 Q So if I understand that correctly, essentially  
17 is it because there would be more surface area  
18 of the bills exposed to the air that they  
19 would volatilize more for that first part?

20 A I would expect that, yes.

21 Q Versus if they're bundled in stacks, then  
22 obviously you know, the faces of the bills  
23 that are in the middle of the bundle, they're  
24 not being exposed to the air very much?

25 A Yeah, I just can't tell you the extent of that

1 cocaine and other controlled substances";  
2 right?

3 A Correct.

4 Q Does it establish to any degree that the  
5 currency was directly or recently exposed to  
6 illicit cocaine?

7 A Can't rule it out. You can never rule it out,  
8 but you can't rule it in on the basis of this  
9 data.

10 Q Do you think that the dog alert and cocaine  
11 positive results by the IONSCAN are probative  
12 evidence that the currency was exposed to  
13 illicit cocaine?

14 A I'm not really familiar with that legal term  
15 "probative."

16 Q I'm just using it in kind of the everyday  
17 meaning of the word. Do you think it makes it  
18 more likely than otherwise that, you know,  
19 there was cocaine exposure?

20 A No, I wouldn't agree with that.

21 Q So it's your opinion that the, you know, dog  
22 alert and the IONSCAN, cocaine positive  
23 results don't support the conclusion that the  
24 currency was directly or recently exposed to  
25 illicit cocaine at all?

1 A That's correct.

2 Q Just to be clear, that's zero, not one bit.

3 A As I said, it doesn't, you know -- it doesn't

4 establish that the currency was in immediate

5 and direct contact with cocaine. It may have

6 or it may not have.

7 Q I guess I'm just trying to use the term

8 conclusively establish in your report, and to

9 me, and correct me if I'm wrong, but it seems

10 like on the kind of scale of certainty that

11 conclusively establish would be at the far end

12 as a definite, right; i.e., you have 100

13 percent certainty that that happened?

14 A No, I didn't really mean that that way, and I

15 don't think it means that.

16 Q Then what do you mean by the term

17 "conclusively establish"?

18 A Based upon the scientific principles, as far

19 as drug testing is concerned, I would not sign

20 off on this result as a positive result. If I

21 was a certified scientist, I would not sign

22 off on it as a positive result.

23 Q So is that the I guess standard or prism that

24 you viewed the dog alert and cocaine results

25 of the IONSCAN 500DT for whether or not you

1 examination and perhaps you know, look at your

2 throat, take your temperature; can't verify

3 whether or not you have a headache. So we've

4 gone basically from something relatively

5 subjective, and I said that the analogy I

6 think is a valid analogy to the dog, so worth

7 looking into, worth checking out. Certainly

8 he's not going to differentiate between COVID

9 and some other viral or bacterial infection

10 that presents in the same way, so you go

11 further, do the examination. But ultimately

12 the only way you're going to know is if you

13 have a test that will differentiate between

14 COVID and any other type of infection. You

15 know, that would be your gold standard. That

16 would be like your GC/MS test.

17 Q So when you use the term "conclusively

18 establish" in your report, what you're

19 referencing is kind of the standard that you

20 would need to certify as a laboratory

21 certifying official; right?

22 A Yes, and it's based upon my education, my

23 knowledge and my training in this field.

24 Q And a necessary component of that would be

25 that you would need quantitative results;

1 would sign off on it as a certifying

2 scientist?

3 A Yes, because as I'd mentioned before, both of

4 these tests are designed to either give some

5 preliminary results as to presence of the

6 drug, cocaine in this case, or the IONSCAN

7 maybe go a little bit further in terms of more

8 comfortable with establishing that yes, there

9 is -- it is probable that a drug is there.

10 But in terms of quantitation doesn't tell you

11 anything, and therefore doesn't distinguish

12 between currency contamination, currency in

13 general circulation being contaminated, and

14 currency which was direct immediate contact

15 with cocaine.

16 Q Then the ---

17 A It's kind of like what I said in the beginning

18 about go to the doctor, so the doctor -- you

19 know, you tell the doctor, I have COVID, and

20 he says well, why do you think you have COVID,

21 because I got this you know, I got a headache

22 and I got a sore throat, and maybe I feel

23 chills; okay, that's interesting, maybe we

24 need to do further -- you know, look into this

25 further, and the doctor will maybe do an

1 right?

2 A For confirmation yes, you would have to --

3 yes, you need a confirmation and a

4 confirmation must be quantitative.

5 Q So put another way, can never be conclusively

6 established without that confirmation testing?

7 A That's correct. And that's why for example

8 Jourdan in his studies did the IONSCAN, that

9 was his screen, then confirmed by GC/MS or LC,

10 liquid chromatography.

11 BY MR. JOHNSON:

12 Let's take five minutes, I might be about

13 done. Let me just look through my notes and

14 see if there's anything else I need to ask.

15 (OFF THE RECORD)

16 DIRECT EXAMINATION RESUMED BY MR. JOHNSON:

17 Q You mentioned that you've testified as an

18 expert prior to this case; right?

19 A I'm sorry, I didn't hear the end of the

20 sentence.

21 Q Sure. You mentioned that you have prepared

22 expert reports and testified as an expert in

23 other cases prior to this one; right?

24 A Yes.

25 Q Have you ever had your opinions or testimony

1 excluded by a court?

2 A I can think of at least one example of that,  
3 yes. It had to do with an alcohol testing  
4 using an Intoxilyzer. Judge wouldn't let me  
5 testify about the Intoxilyzer because I wasn't  
6 certified at the time on the Intoxilyzer. It  
7 goes back probably 30 years.

8 Q Any other instances in which you've had your  
9 expert opinions or testimony excluded by a  
10 court?

11 A No, not that I can think of. No, usually when  
12 I was qualified as an expert, I was qualified  
13 as a forensic toxicologist and forensic  
14 chemist. Sometimes I testified as both, and  
15 sometimes just as one.

16 Q In your career as an expert witness have you  
17 ever testified for the prosecution?

18 A Yes. In the years that I was at the Air Force  
19 drug testing lab, I testified for the Air  
20 Force and the courts martial on several  
21 occasions.

22 Q So that would have been in the JAG system?

23 A Yes. That would be when there was a positive  
24 test and there was a courts martial or some  
25 other legal proceeding.

1 A I can't recall a case where I testified for  
2 the Government in a currency forfeiture case.

3 BY MR. JOHNSON:

4 Before we go off the record, Dr. Poupko, one  
5 of the things that we discussed at the outset  
6 of this was since you are in Israel currently  
7 and the court reporter can't swear you in  
8 because she's in North Carolina, is that you  
9 will be signing a declaration stating that  
10 your testimony here was under oath and  
11 truthful, and I have given your attorney a  
12 sample of that declaration. And we will then  
13 make that declaration a deposition exhibit.  
14 And I just wanted to make clear on the record  
15 that that was going to be the kind of process  
16 for getting this testimony under oath. Ed,  
17 does that comport with your understanding?

18 BY MR. BURCH:

19 Yes.

20 BY THE DEPONENT:

21 Yes, that was my understanding as well.

22 BY MR. JOHNSON:

23 Okay, with that I have nothing further and  
24 will pass the witness.

25 BY MR. BURCH:

1 Q Was that part or kind of your job description  
2 as -- I forget what your specific title was,  
3 but was that part of your job description for  
4 the Air Force was to testify?

5 A Yes.

6 Q You were kind of paid extra than your salary  
7 to do it?

8 A No, that was just part of my job.

9 Q As a retained expert where you are paid, have  
10 you ever testified for the prosecution?

11 A Yes, but not that often. As I mentioned,  
12 early in my career were a lot of criminal  
13 cases that were DUIs, DWIs, and I don't recall  
14 ever testifying for the prosecution. But  
15 there may have been a couple of cases that I  
16 did testify for the prosecution. Then of  
17 course all the civil cases I testified for  
18 plaintiff or defendant depending on the  
19 particular case.

20 Q Would it be fair to say that most of your  
21 retained expert work has been for the defense  
22 in forfeiture or criminal cases?

23 A Yes.

24 Q Do you have like a ballpark percentage as what  
25 that would be, 80/20, 90/10, 50/50?

1 I don't have any questions.

2 BY MR. JOHNSON:

3 All right, Dr. Poupko, thank you for your time  
4 today.

5 BY THE DEPONENT:

6 You're welcome.

7 (EXHIBIT NO. 4 DEEMED MARKED)

8 (PROCEEDINGS CONCLUDED AT APPROXIMATELY 10:50 A.M.)

9 NEITHER COUNSEL NOR THE WITNESS REQUESTED TO READ  
10 AND SIGN THE DEPOSITION.)

CERTIFICATE

I, Mai-Beth Ketch, CCR, CVR-M, Court Reporter and Notary Public, do hereby certify that the foregoing 85 pages are an accurate transcript of the deposition of Jay M. Poupko, Ph.D., taken by me and transcribed under my supervision.

I further certify that I am not financially interested in the outcome of this action, a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel.

This is the 14th day of January, 2021.

\_\_\_\_\_  
MAI-BETH KETCH, CCR, CVR-M

Notary Public No.: 19981410006

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<b>word</b> 52:23	70:7,23	<b>1994</b> 17:10	78:25	
77:17	72:6 73:22	<b>19981410006</b>	<b>57</b> 2:13	
<b>words</b> 27:17	74:21	86:17	<b>6</b>	
<b>work</b> 9:7	75:25	<b>2</b>	<b>6</b> 2:15 61:16	
10:3 11:25	76:12,12	<b>2</b> 2:9 18:22		
12:1,5,6	<b>year</b> 9:17	19:1,5,17		
15:19				
41:20				



Lareau Consulting Services LLC  
 Dr. Richard T. Lareau  
 Cell: 1-603-409-2106

www.LareauConsultingServices.com  
 email: Lareau@LareauConsultingServices.com

Case Opinion of Dr. Richard T. Lareau  
 Lareau Consulting Services LLC

27 July 20, 2020

Case: US vs Darren Lenard Coleman

Under contract to: U.S. Attorney's Office Western District of North Carolina  
 Suite 1650, Carillon Building, 227 West Trade Street, Charlotte, NC 28202  
 Contract No: 15JA58-20\_P-00000007

**1.0. Request for an Expert Report;** I have been requested, under contract, by U.S. Federal Attorneys AUSA Bain-Creed & AUSA Johnson, U.S. Attorney's Office Western District of North Carolina, to provide, if possible, an expert's report on the significance of the Ionscan 500DT IMS test results from this case.

## 2.0 Qualifications;

- a. I currently work as a technical consultant performing (1.) legal expert witness representation, (2.) meeting planning and Executive Director for Scientific Workshops, a Nonprofit Corporation of New Jersey, and (3.) technical consultant to small businesses developing next-generation detection equipment.
- b. Previously, a senior Research Chemist, U.S. Government Civil Service employment for approximately 35 years. Approximately 19 years with the Transportation Security Laboratory (TSL), DHS Science & Technology Director, and 15 years with the Army Research Laboratory, DOD. With DHS, I was mainly involved in explosives and drug detection systems, while with DOD I was involved with trace detection in electronic materials and devices.
- c. As Chief Scientist and the Applied Research & Development Division Director of the Transportation Security Laboratory, DHS S&T, I was the lead trace detection expert for the laboratory.
- d. Additionally, I spent approximately 10 years as the Subgroup Lead of the U. S. Governments, multiagency directed, Combating Terrorism Technical Support Office (CTTSO) / Technical Support Working Group (TSWG), in Washington DC. Main duties were to assist in general detection science and developmental programs for explosives, chemical agents, illicit drugs, etc.
- e. My PhD thesis work from Arizona State University was in the field of trace detection utilizing imaging mass spectrometry.
- f. I have published peer-reviewed journal articles, book chapters, patents, and have presented at numerous scientific conferences and workshops in the field of trace detection. To date I have over 150 publications. Currently I am working with Dr. Reno Debono, recently retired lead scientist from Smith Detection, Edgewood, MD, on a book chapter: "Trace Explosive Detection and Ion

Mobility Spectrometry,” in the upcoming 2<sup>nd</sup> Edition of “Counterterrorist Detection Techniques of Explosives.”

g. I have taught short courses on trace detection and trace sampling at international conferences (2 Explosive Detection conference, as well as, a series of detection training workshops for Federal security screeners at TSL).

h. I am co-Organizers of 25+ years of detection workshops, including the TED Workshop (Trace Explosives Detection workshops), CED Workshops (Concealed Explosives Detection workshops) and 2 international ISADE conferences (International Symposium on the Analysis and Detection of Explosives).

i. As a leading employee at the Transportation Security Laboratory, Atlantic City, New Jersey, I had extensive class and hands-on training on IMS systems from the major three manufacturers, and was involved in the Test & Evaluation of IMS systems for explosives and drugs. I have extensive training and use of the Smiths Detection Ionscan 500DT IMS system.

j. I have completed two previous legal expert witness cases, one involving a civilian fireworks accident and another a Federal case involving similar Ionscan 500DT drug detection evidence (Harrisburg, PA).

### 3.0 Background on IMS and the Smiths Detection Ionscan 500DT IMS system;

Ion mobility spectrometry (IMS) is an analytical technique used to separate and identify ionized molecules in the gas phase based on the ion's mobility in a carrier buffer gas. Though heavily employed for military or homeland security purposes, such as detecting illicit drugs and explosives, the technique also has many laboratory analytical applications, including the analysis of both small and large biomolecules (medical and pharmaceutical applications). IMS instruments are extremely sensitive stand-alone devices, often deployed in benchtop, handheld, or incorporated into or with other systems.

Perhaps ion mobility spectrometry's greatest strength is the speed at which separations occur—typically on the order of tens of milliseconds. This feature combined with its ease of use, low cost, relatively high sensitivity, and highly compact design has allowed IMS as a commercial product to be used as a routine tool for the field detection of explosives, drugs, and chemical weapons. Major manufacturers of IMS screening devices used in airports are Smiths Detection (formally Barringer Instruments), Leidos (formally L3, Implant Science Corp) and Rapiscan (formally Morpho Detection, GE Security Instruments, and Ion Track Instruments). The products used for explosives detection, are typically certified as ETD (Explosive Trace Detection systems) by the TSA.

In the pharmaceutical industry IMS is used in cleaning validations, demonstrating that reaction vessels are sufficiently clean to proceed with the next batch of pharmaceutical product. IMS is much faster and more accurate than other analytical measurement techniques, like HPLC and total organic carbon methods, which were previously used. IMS is also used for analyzing the composition of drugs produced, thereby finding a place in quality assurance and control.

As a research tool ion mobility is becoming more widely used in the analysis of biological materials, specifically, proteomics and metabolomics. For example, IMS-MS using MALDI as the ionization method has helped make advances in proteomics, providing faster high-resolution separations of protein pieces in analysis. (Northwest et al., n.d.) {Ref: [https://en.wikipedia.org/wiki/Ion-mobility\\_spectrometry](https://en.wikipedia.org/wiki/Ion-mobility_spectrometry)}

Outside of laboratory purposes, IMS has found great usage as a detection tool for hazardous substances. More than 40,000 IMS systems are in use worldwide in airports, border crossings, federal entrances to buildings, vehicle screening, etc., and in the USA, the US DOD has utilized more than 50,000 IMS devices in the field.

#### 4.0 Procedures and Interpretation of Results from the Ionscan 500DT IMS

The use of Ion Mobility Spectrometry for security usage starts with verifying one has a contamination free facility to perform the IMS operation, followed by properly obtaining the sample. One typically would situate the IMS system in a room with little traffic, clutter and general dirtiness (a source of trace contamination). The system should be placed on a table that has been cleaned prior, with a solvent like isopropyl alcohol (rubbing alcohol), and system then plugged into house electrical power. The system normally requires approximately 30 minutes to warm up to READY or operational mode. The screener or tester would then verify the operation of the system with a blank sample (no ALARM), followed by a 'verific' or test sample (see discussion on Verification Method below), which should properly provide an alarm (e.g., TNT, xyz, etc.) (indicating an ALARM). After this pre-test, a blank sample or two are run to verify the system is clear of any residual from the prior sample spike, and ready for the next sample.

The sample is taken typically utilizing the Smiths Detection Ionscan 500DT sample swabs, which are a cloth-like material, inserted into the sample wand. The sample wand, shown in Figure 1, is a tool that allows one to sample the surface of a material, with a little downward pressure, and NOT have human contact with the sample swab itself; the sample swab, inside the sample wand, is inserted into the front loading area of the Ionscan 500DT, and the sample swab is clamped and sampled by the instrument.

Sampling of a surface, in this case currency, plastic bags used for wrapping of the currency bundles, or luggage that the currency was placed into, is simply an interaction of the sample swab with the material of interest. The contact between the two surfaces allows the swab to sample or grab minute particles (analyte of interest), which are invisible to the naked eye ( $< 100\mu\text{m}$  in diameter). The analyte of interest normally is present on materials handled by someone contaminated with drugs on their fingers, or in an area that has airborne drug contamination present, like a drug lab or drug packing area. For drugs or explosives, it is nearly impossible to package an item that is 'trace level' clean. Most packages are made without the care of spreading contamination.

The Smiths Detection Ionscan 500DT starts its detection process with the entry of the sample swab into the system. Once placed inside the entrance area, it is clamped-down in place and a  $200^{\circ}\text{C}^{+}$  temperature desorption takes place; this is simply heating of the sample swab in a quick, i.e. few seconds, timeframe. This desorption step allows the particles on the surface, both the analyte particle of interest and any other particles on the surface, to evaporate from the surface in the form of gas molecules. In the case of the Ionscan 500DT, these molecules are then exposed to a  $\text{Ni}63$  radiation source, which provides electrons to interact with the gas molecules, which form ions. This is not much different than what happens in an electric light bulb; inside the bulb is sealed gas molecules, which become excited into ions via the interaction of electrons from the hot filament inside, giving off light. In the case of most IMS, like with the Ionscan 500DT, there is an added gas, i.e., dopant gas, that also interacts to enhance the number of ions produced, and is varied depending upon the analyte of interest (explosives vs drugs, etc.), the charge of the ion, etc.

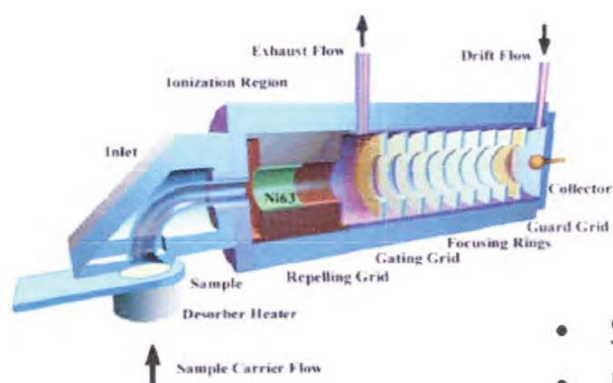
The ions are then accelerated to the ion mobility drift tube, where the ions then 'drift' or move down the series of concentric/charged rings, till they separate due to their mass or size, and run into the final detection plate at the end of the IMS tube. The detection or Faraday plate measures the amount of charge or current for each packet of ions, which then results in a measurement of analyte peaks vs time (typically in counts/sec or digital units). It should be noted that in the Ionscan 500DT, there are two IMS tubes, one for the positive ions and the other for the negative ions, however the detection for each is similar and calibrated. Most drugs are observed as positive ions, whereas most explosives are observed as negative ions.

The resultant spectrum or ion plasmagram is a graph of mobility (or size or identification of the analyte) vs time, and over a 5-10 second period, the IMS system collects many ion plasmagrams and averages them to one final resultant graph. The IMS detection systems have a detection library correlated with a mobility drift time and the ID of the species of interest: for example, for drug detection, there will be many species in the library, like Cocaine, Heroin, THC, etc., and many will have multiple peaks to be used to provide higher confidence in the ID of the species of interest. If the sample swab did not contain the programmed substance(s) in the library, above their set minimum alarm levels, the instrument will indicate a negative result (CLEAR or NO ALARM). The minimum alarm level (MAL) is defined as the minimum quantity of substance deposited on the sample swab that is required to generate an alarm on the instrument; this is typically preset by

the manufacture, and based on statistical laboratory experiments. Similarly, if the sample swab contained one or more of the programmed substances in the library, above their respective minimum alarm levels, then the instrument will give a positive result (ALARM), as well as display the detected substance and level. The minimum alarm levels are typically set at low nanograms or ion count levels, for each substance.

Additionally, it should be noted that sampling from the material in question (e.g., currency) to the sample swab is not a 100% efficient sampling process. First, one typically is sampling only part of the item, and secondly the sample swab will not pickup up all of the analyte on the item. Often, one can take a second or more samples from the same item, and still pickup analyte and have a detection. Hence, IMS detection is used as a presumptive tool, typically providing a non-quantitative indication of what is on the item; laboratory measurements of solvent extractions from surfaces, and measured by gas chromatography or mass spectrometry, is the usual lab method to obtain a quantitative measurement of the total amount of contamination on an item.

The above process can be visualized in the graphic shown in Figure 1.



### Applications:

- Explosives detection on both luggage and people
- Detection of narcotics, CW, TIC's, etc.
- Substrate heated to vaporize particles
- Molecules are ionized by a weak radioactive source and drift through a weak electric field
- Particle time of flight is a distinct fingerprint, enabling detection

Figure 1. A schematic drawing representing a Ionscan IMS tube.

The Smiths Detection Ionscan 500DT, shown below in Figure 2, is manufactured by Smiths Detection, and is a presumptive field detection system for drugs and explosives. The end user typically would, upon procurement of the system, allow Smiths Detection to assist in setting up the library. The system can have only drug detection mode, or only explosives detection mode, or both. Within these library modes, the list can be modified to turn ON or OFF various substances.



Figure 2. Smiths Detection Ionscan 500DT, and Ionscan 500DT with system sampling wand, sample swabs and verific pen.

To ensure the Ionscan 500DT is working properly, there are a few checks the training operator should perform. First, running of blank (new and not performing surface sampling) is important to provide evidence that there is no carry-over from previous measurements while at the same time permits the instrument to perform a full system check and ensure it's processes are working properly.

The use of a Verification Method, or a Smiths Detection verific sample, is important to ensure the system's detection is working properly and its internal calibration is set correctly. For the Smiths Detection verification sample, it is typically a pen that one would rub onto a new sample swab, which contains verification substances typically of two non-controlled pharmaceutical compounds and two explosives compounds. The sample swab is then loaded into the Ionscan 500DT and system starts its verification measurement operation. The substances from the verification pen or sample must be detected by the Ionscan 500DT for the instrument to produce a 'Verific' alarm. The operator is trained to perform this verific test at least once a day, typically at the beginning of their operations or work shift, or whenever there might be need to restart the instrument or any other time to confirm its full operation. Smiths Detection normally programs their systems to require a verific test every 8 hours or after ever login of the system or after a thermal 'bake-out' (normally a overnight system cleaning process). If the verification test fails, i.e., no 'verific' alarms result, then the operators are trained to repeat the test, conduct basic cleaning or troubleshooting, or contact the manufacture for assistance.

After a real substance alarm, the operators are trained to discard the sample swab, discard and replace their gloves (if wearing gloves), and to perform a system clear-down by placing a new 'blank' sample swab into the instrument. Depending upon the level of the previous alarm, it may take more than one blank sample swab to reach the status that the system has returned to a READY state. In a few cases, where the previous substance overloaded the instrument, a 'bake-

out' process may be necessary. This is typically an 8-hour process, as it elevates the desorber and IMS tube to high temperatures for approximately 5 hours.

An example of a normal Smiths Detection Ionscan 500DT library for narcotics is (Mino, 2005):

- Amphetamine
- Cocaine
- Heroin
- Ketamine, MDA
- MDEA
- MDMA
- Methamphetamine
- PCP
- THC
- Procaine
- Fentanyl (and or it's many analogs, like Carfentanil, Sufentanil, Alfentanil, Remifentanil)
- Lorazepam
- 3-quinuclidinyl benzilate
- Etc.

The operator of an Ionscan 500DT should have received operational training from the manufacturer previously, and should have a daily procedure for operating the system in a proper fashion.

## 5.0 Reliability of the Results from the Ionscan 500DT IMS

A false alarm or false positive result occurs when an analyte other than that which is the programmed drug or explosive is detected in the same chemical channel as the programmed drug or explosive.

False alarm rates for negative or positive mode analysis is claimed to be <1% for narcotics and explosives, by Smiths Detection (Mino, 2005). This is approximately what I have observed when working with TSA, USCG, DOS, DOD, DOI, etc.

A nuisance alarm can occur when an analyte detected by the system and a legal substance or other analyte came from a legitimate source. An example of a nuisance alarm can be when one gets an NG alarm produced from a legal heart medicine, i.e. vasodilator medicine, in a NG channel; in this case, there is no presence of an illegal NG threat, but only of the same real NG ingredient from a legal source.

## 6.0 Samples tested by the Ionscan 500DT IMS for this case

Case documents provided include:

- DHS HSI report: "The encounter and seizure of \$252,140 in US Currency from Darren Coleman at the Charlotte-Douglas International Airport on 6/27/16"
- Photos of DHS HSI evidence: USA000101 through USA000116
- Printouts from DHS HSI Smiths Detection Ionscan 500DT data; USA000091 through USA000097

From the DHS HSI report, Special Agent Bass, TFO Brown and TFO Griffith conducted the trace detection IMS Ionscan 500DT sampling and analysis on (1.) two bundles of currency, (2.) four of the six plastic bags {correlating to the white,

red and black bag data}, (3.) a Nike Air Jordon sneaker box, and (4.) the interior of the black roller bag with orange trim. They then state that all the samples alarmed for cocaine, except for the “black roller bag with orange trim, which tested negative for narcotics and explosives.” This negative result was not included in the data provided.

Section 9.0 below will address my interpretation of the actual Smiths Detection Ionscan 500DT data, from evidence USA000091 through USA000097.

## 7.0 Operation of the Ionscan 500DT IMS on said date

The case reports indicate that HSI Special Agent William Bass and/or HIS Task Force Officer Griffith obtained the samples and operated the Ionscan 500DT system.

On 10 Feb 2020, I conducted a phone interview of SA William Bass to learn more of how he obtained the samples and operated the Ionscan instrument. The following are the key points I learned from this QA interview.

- Did both of the agents have training for the Ionscan 500DT operations, and by who? “Both had training from Smiths Detection on the operation of the Ionscan 500DT. They had training and were Smiths Detection certified.”
- What protocol did the agents use for sampling and use of Ionscan 500DT instrument? “They learned a preparation, sampling and Ionscan operation procedures from Smiths Detection trainer.”
- Specifically, what steps did the agents take in performing the sampling? “As operator, gloves were used, surrounding surfaces were cleaned (isopropanol), blanks and Verification swabs were run (successfully). The second person did all the sampling, again wearing gloves. After each and every hot sample (Alarm recorded), at least one blank swab was run.”
- What were the conditions of the room utilized for the sampling and analysis? “The Ionscan instrument was operated in a separate clean small room that is secured and used by HSI officials only.”
- What’s the typical daily or weekly use of the Ionscan 500DT IMS system? “Use of this particular Ionscan 500DT instrument varied depending upon work load, but used infrequently.”
- How exactly were samples taken from the currency? “Currency was taken out of the plastic bags and laid out on the table by one person. The second person held down the bills and swabbed, using the sampling wand and sampling swab, across multiple bills.”
- Does the HSI have records on what the typical background levels would be for currency in the state of NC or GA? “No, they do not have any data on background levels from currency in any state.”

From this interview, all my questions were answered to my satisfaction, and the procedures and steps used seemed to be satisfactory for this type of characterization utilizing an Ionscan 500DT.

## 8.0 Issue of General Contamination in US Currency Circulation

It is well known to the general population that most of the currency in the USA and worldwide is contaminated with low levels of drugs, from normal circulation (Aitken et al., 2017; Jourdan et al., 2013; Poupko et al., 2018; Sisco et al., 2018). Minute particles from illicit drugs are often sticky and persistent. The United States still uses mainly paper currency, vs some other countries, like Canada and European countries, are or have switched over from paper based to a polymer-based currency. There are no known publications or reports that indicate what the difference would be, but hypothetically, the paper-based materials would hold onto particle contaminations at a higher level than with the smoother polymer-based materials.

These older publications, referenced above, indicate sampling of currency from US bills in general circulation, have attempted to provide a quantitative level which remains on the bills. This provides a quantitative number; however, it is not directly correlated to the IMS Ionscan 500DT ion count levels which the instrument provides for each alarm.

From one of my previous Legal Expert Witness cases {Ref: Expert Witness Contract Number 15JA67-20-P-000000005, United States v. Maurice Lackey, Federal District Court, Middle District of Pennsylvania, AUSA Scott Ford, December 2019.}, I was able to utilize the State of Pennsylvania's National Guards Counterterrorism Units data for background levels. They referred to this data as "Casual Contact" data, which was a good statistical (n=480 total) sampling of currency from banks and casinos in 20 counties across Pennsylvania (24 samples each, for a total of 480 samples). They accumulated this data for Cocaine and Methamphetamines (i.e., 2 separate lists; see data attached as Addendum to this report). The data all come from similar Smiths Detection Ionscan 500DT's. For Cocaine, out of 480 samples, the average Casual Contact amount for Cocaine was 328.74 counts/sec (again, from the Maximum Amplitude of the IMS peak via the Ionscan 500DT ion plasmagram.). To be on the safe side, they then set anything higher than 500 counts/sec as their Minimum Alarm Level or threshold. The Smiths Detection Factory specification is typically set at 50-100 counts/sec, for a cocaine alarm, which is approximately 0.5 nanograms of cocaine {Refs – private communicate with Smiths Detection technical experts, Ms. Lena Kim, Toronto, Canada}.

## 9.0 Opinion resulting from review of the Ionscan 500DT IMS Data/Alarms from the Currency Sampled.

The first printout, evidence # USA000091, is the initial scan for the Verification run. As mentioned above in section 4.0; this is the correct FIRST sample to be presented to the Ionscan 500DT system, to ensure it is calibrated and working properly. This was performed on 06/27/2016 at 3:40PM (Sample ID 3181), according to the time stamp on this data printout. From the lower section of the printout, the key data to look at is the Alarm and Delta, or the variation of the peak from its known mobility number (Ko). All of the Delta numbers are low and hence within range of the associated peaks. This provides information that the system was working properly.

The next set of data, evidence # USA000092, is for the first sample taken from currency via the bundles {performed on 06/27/2016 at 3:56M (Sample ID 3210)}; according to discussion with SA William Bass, they properly opened the bundles and placed the currency out on a table, followed by sampling across the surface of many bills, and then sample swab loaded into the Ionscan 500DT to commence system analysis. This printout indicates a fairly strong alarm for cocaine (1394 counts/sec for CumA; CumA is the cumulative or addition of all the ion counts in the summed peaks), resulting in a 14% Alarm Rate.

Data from evidence # USA000093, is the second sample taken from currency via bundles {performed 06/27/2016 at 3:53PM (Sample ID 3206)}; this printout indicates a very strong alarm for cocaine (cocaine channel at 4702 counts/sec for CumA and cocaine High at 1334 counts/sec CumA), resulting in a 32% Alarm Rate.

Smiths Detection will often use more than one peak, for various reasons, but mainly to ensure detection is correct, and thereby does not miss any detections. In this case, there is the addition of the cocaine High peak, vs just the cocaine peak. Note that both have the same mobility value (Ko) and Drift Time values; this is because they are using the same measurement data, and running two different calculation algorithms on them. This is often added in to avoid a high peak that is so intense that it broadens the peak/peak height, and possibly shifts out of the detection window. Hence the cocaine High peak is utilizing a different calculation, whereby they use a FWHM (Full Width Half Maximum peak) shift with a baseline fit or normalization. This normalization reduces the large peak to a smaller and peak-fit/alarming size.

Date from Evidence # USA000094, is from the inside of the white bag {performed on 06/27/2016 at 4:46PM (Sample ID 3196)}. This implies that the screener, utilizing the sampling wand with a sample swab attached, sampled, by applying pressure to the wand, and sampling the inside surface of the white bag, while it was pressed against the table. In this case, there is a strong alarm for cocaine at 1476 counts/sec CumA, resulting in a 15% Alarm Rate.

Date from Evidence # USA000095, is from the inside of the red bag {performed on 06/27/2016 at 3:47PM (Sample ID 3199)}. This implies that the screener, utilizing the sampling wand with a sample swab attached, sampled, by applying pressure to the wand, and sampling the inside surface of the red bag, while it was pressed against the table. In this case, there is a strong alarm for cocaine at 1137 counts/sec CumA, resulting in a 12% Alarm Rate.

Date from Evidence # USA000096, is from the inside of the black bag {performed on 06/27/2016 at 3:49PM (Sample ID 3202)}. This implies that the screener, utilizing the sampling wand with a sample swab attached, sampled, by applying pressure to the wand, and sampling the inside surface of the black bag, while it was pressed against the table. In this case, there is a low alarm for cocaine at 409 counts/sec CumA, resulting in a 4% Alarm Rate.

Date from Evidence # USA000097, is from the inside of the Jordan Sneaker Box {performed on 06/27/2016 at 3:44PM (Sample ID 3193)}. This implies that the screener, utilizing the sampling wand with a sample swab attached, sampled, by applying pressure to the wand, and sampling the inside surface of the Jordan Sneaker Box, while it was pressed against the table. In this case, there is a low alarm for cocaine at 379 counts/sec CumA, resulting in a 5% Alarm Rate.

Note that the Alarm Rates indicated on each scan is not a quantitative amount on a 100% scale, but rather a percentage based on a calculation to indicate a percentage strength for the identified specie, i.e. cocaine, to the threshold minimum alarm levels {Ref: private communications with Dr. Reno Debono, recently retired Smiths Detection senior IMS expert}. Also, it is clear from the Sample ID numbers, that the operator properly ran at least one blank sample swab in between the hot or alarmed runs, and in some cases ran several.

Also, concerning the 'Casual Contact' limit, or common currency background amounts, discussed in Section 8.0 above, the data from USA000092 through USA000095 are significantly above the set 500 counts/sec level set, implying these are real and strong hits for cocaine on these surfaces. For the last two, USA000096 and USA000096, although they do present as cocaine alarms, they are below the background level set at 500 counts/sec. If one were to strictly followed Smiths Detection MAL alarm rates or the 'Casual Contact' background threshold for cocaine (328.74 counts/sec), then these two would also be considered real cocaine alarms.

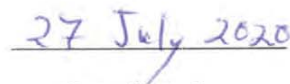
## 10. Conclusion

The Smiths Detection Ionscan 500DT data provided for this case do indeed present high levels of cocaine on samples taken from the currency and several of the other packaging materials for the bundles of currency, over that which one might expect to see as background on typical US currency. Thus, under my expert opinion, I'd confirm that data USA000092 through USA000095 indicate real presence of high cocaine alarms.

I affirm that the statements made above are true to the best of my technical knowledge and represent my expert review and opinion of the case's Ionscan detection data:



Richard T. Lareau, Ph.D.  
Lareau Consulting Services LLC



Date Signed

# 11. References – the following are a few of the key peer-reviewed publications I used in this case report;

- Aitken, C. G. G., Wilson, A., Sleeman, R., Morgan, B. E. M., & Huish, J. (2017). Distribution of cocaine on banknotes in general circulation in England and Wales. *Forensic Science International*, 270(January), 261–266. <https://doi.org/10.1016/j.forsciint.2016.10.017>
- Jourdan, T. H., Veitenheimer, A. M., Murray, C. K., & Wagner, J. R. (2013). The Quantitation of Cocaine on U.S. Currency: Survey and Significance of the Levels of Contamination. *Journal of Forensic Sciences*, 58(3), 616–624. <https://doi.org/10.1111/1556-4029.12097>
- Mino, W. (2005). *Ionscan 500DT 2202 Lakeside Boulevard*. 22–24.
- Northwest, P., Ion, H. A., Drift, I. A., & Combined, D. (n.d.). *Ion-mobility spectrometry*. 1–11.
- Poupko, J. M., Hearn, W. L., & Rossano, F. (2018). Drug Contamination of U.S. Paper Currency and Forensic Relevance of Canine Alert to Paper Currency: A Critical Review of the Scientific Literature. *Journal of Forensic Sciences*, 63(5), 1340–1345. <https://doi.org/10.1111/1556-4029.13755>
- Sisco, E., Najarro, M., & Burns, A. (2018). A snapshot of drug background levels on surfaces in a forensic laboratory. *Forensic Chemistry*, 11(September 2018), 47–57. <https://doi.org/10.1016/j.forc.2018.09.001>

## Other relevant publications;

- Jenkins, A J. “Drug contamination of US paper currency.” *Forensic science international* vol. 121,3 (2001): 189-93. doi:10.1016/s0379-0738(01)00401-7
- Oyler, J et al. “Cocaine contamination of United States paper currency.” *Journal of analytical toxicology* vol. 20,4 (1996): 213-6. doi:10.1093/jat/20.4.213
- Lavins, Eric S et al. “Cannabis (marijuana) contamination of United States and foreign paper currency.” *Journal of analytical toxicology* vol. 28,6 (2004): 439-42. doi:10.1093/jat/28.6.439
- Zuo, Yuegang et al. “An accurate and nondestructive GC method for determination of cocaine on US paper currency.” *Journal of separation science* vol. 31,13 (2008): 2444-50. doi:10.1002/jssc.200800117

12. Addendum – Casual Contact IMS numbers from the Commonwealth of PA (attached and shown below).



DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
PENNSYLVANIA NATIONAL GUARD  
**COUNTERDRUG JOINT TASK FORCE**  
Building 8-65, Ft. Indiantown Gap  
Annville, PA 17003-5002

### Commonwealth of Pennsylvania 2017 Casual Contact

County	Samples	Total MaxA	County Ave
Cameron	24	1,425	59.38
McKean	24	645	26.88
Potter	24	0	0
Tioga	24	0	0
Bradford	24	6,706	279.42
Sullivan	24	1,951	81.29
Lycoming	24	3,301	137.54
Lancaster	24	8,562	357
Butler	24	9717	405
Westmoreland	24	12,514	521
Allegheny	24	11,515	480
Beaver	24	18,925	788.54
West Chester	24	16,552	689.67
Westmoreland	24	8691	362.13
Washington	24	11635	484.79
Butler	24	7158	298.25
Mont (Pottstown)	24	8725	363.54
Mont (Horsham)	24	8744	364.33
Beaver	24	10654	443.91
Berks	24	10377	432.38
Total:			
Total MaxA:	157797		
Total Sample:	480		
Casual Contact:	328.74		

As of: 30 June 2017

Above Table is the Casual Contact report for Cocaine, utilizing a Smiths Detection Ionscan 500DT



DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
PENNSYLVANIA NATIONAL GUARD  
**COUNTERDRUG JOINT TASK FORCE**  
Building 8-65, Ft. Indiantown Gap  
Annville, PA 17003-5002

**Commonwealth of Pennsylvania 2017 Casual Contact**  
(Methamphetamine)

County	Samples	Total MaxA	County Ave
Cameron	24	0	0
McKean	24	0	0
Potter	24	0	0
Tioga	24	0	0
Bradford	24	162	6.75
Sullivan	24	0	0
Lycoming	24	0	0
Beaver	24	0	0
Chester	24	320	13.33
Butler	24	0	0
Mont (Pottstown)	24	692	28.83
Mont (Horsham)	24	2203	91.79
Berks	24	8080	336.67
<b>Total:</b>	<b>312</b>	<b>11457</b>	<b>36.72</b>
<b>Total MaxA:</b>	<b>11457</b>		
<b>Total Sample:</b>	<b>312</b>		
<b>Casual Contact:</b>	<b>36.72</b>		

BOLTZ.KIMB (Signature required by)  
ERLY ANN J (Signature required by)  
236734672 (Signature required by)  
KIMBERLY BOLTZ  
SFC. PAARNG  
Technical Support NCOIC

BEARD.ETHAN (Signature required by)  
CHARLES.1037 (Signature required by)  
864869 (Signature required by)  
ETHAN BEARD  
SFC. PAARNG  
Technical Support Operator

As of: 30 June 2017

Above Table is the Casual Contact report for Methamphetamine, utilizing a Smiths Detection Ionscan 500DT



DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
PENNSYLVANIA NATIONAL GUARD  
**COUNTERDRUG JOINT TASK FORCE**  
Building 8-65, Ft. Indiantown Gap  
Annville, PA 17003-5002

Commonwealth of Pennsylvania 2017 Casual Contact  
(COCAINE)

County	Samples	Total MaxA	County Ave
Cameron	24	1,425	59.38
McKean	24	645	26.88
Potter	24	0	0
Tioga	24	0	0
Bradford	24	6,706	279.42
Sullivan	24	1,951	81.29
Lycoming	24	3,301	137.54
Lancaster	24	8,562	357
Butler	24	9717	405
Westmoreland	24	12,514	521
Allegheny	24	11,515	480
Beaver	24	18,925	788.54
West Chester	24	16,552	689.67
Westmoreland	24	8691	362.13
Washington	24	11635	484.79
Butler	24	7158	298.25
Mont (Pottstown)	24	8725	363.54
Mont (Horsham)	24	8744	364.33
Beaver	24	10654	443.91
Berks	24	10377	432.38
Total:			
Total MaxA:	157797		
Total Sample:	480		
Casual Contact:	328.74		

As of: 30 June 2017



DEPARTMENT OF MILITARY AND VETERANS AFFAIRS  
PENNSYLVANIA NATIONAL GUARD  
**COUNTERDRUG JOINT TASK FORCE**  
Building 8-65, Ft. Indiantown Gap  
Annville, PA 17003-5002

## Commonwealth of Pennsylvania 2017 Casual Contact (Methamphetamine)

County	Samples	Total MaxA	County Ave
Cameron	24	0	0
McKean	24	0	0
Potter	24	0	0
Tioga	24	0	0
Bradford	24	162	6.75
Sullivan	24	0	0
Lycoming	24	0	0
Beaver	24	0	0
Chester	24	320	13.33
Butler	24	0	0
Mont (Pottstown)	24	692	28.83
Mont (Horsham)	24	2203	91.79
Berks	24	8080	336.67
Total:	312	11457	36.72
Total MaxA:	11457		
Total Sample:	312		
Casual Contact:	36.72		

BOLTZ.KIMB Digitally signed by  
BOLTZ.KIMBERLY.A  
ERLY.ANN.1 NN.1236734672  
236734672 Date: 2019.10.01  
08:58:39 -04'00'

KIMBERLY BOLTZ  
SFC, PAARNG  
Technical Support NCOIC

BEARD.ETHAN. Digitally signed by  
BEARD.ETHAN.CHARLES.1037064869  
CHARLES.1037 Date: 2019.10.01 09:52:46 -04'00'

864869  
ETHAN BEARD  
SFC, PAARNG  
Technical Support Operator

As of: 30 June 2017

DECEMBER 15, 2020  
11:59 A.M.

21 Betty Spillane t/a SHORE REPORTING SERVICE, P.C.  
23 Certified Court Reporters  
29 Tobago Avenue  
24 Toms River, New Jersey 08753  
Office (732) 349-2450 \* Fax (732) 270-1151  
25 ShoreReporting@aol.com

17	No.	Description	Ident.
18	1	Curriculum Vitae of Dr. Lareau .....	4
19	2	Case Report 7/27/20 .....	4
20	3	Ionscan results .....	4
21	4	Six photographs .....	4
22	5	Lackey transcript dated 12/3/19 .....	4
23	6	DHS Incident Report .....	4

2

EXHIBIT  
15

4

18 THE VIDEOGRAPHER: This is the video  
19 operator speaking, Scott Lindenbaum, of Shore  
20 Reporting. Today's date is December 15, 2020. The  
21 time is now 11:59. We are here to take the  
22 videotaped deposition of Dr. Richard Lareau in the  
23 matter of United States of America versus Coleman,  
24 filed in the United States District Court for the  
25 District of North Carolina, Charlotte Division.

5

1                   Would counsel please voice identify  
2 yourselves and state whom you represent?  
3                   MR. BURCH: I'll go ahead and start.  
4                   MR. MICHAEL: This is David Michael.  
5 Go ahead. This is David Michael. I'm one of the  
6 attorneys for the claimants and the firm that is  
7 taking the deposition.  
8                   MR. BURCH: And I'm Edward Burch,  
9 B-U-R-C-H, representing also claimant, Robert  
10 Shumake.  
11                  MR. BAIN-CREED: And I'm Benjamin  
12 Bain-Creed, B-A-I-N-C-R-E-E-D, representing the  
13 United States.  
14                  THE VIDEOGRAPHER: Would the court  
15 reporter please swear in the witness?  
16  
17                  R I C H A R D   T .   L A R E A U ,   P h . D . ,  
18                  Five Shorin Way, Manchester, New Jersey 08759,  
19                  having been first duly sworn according to  
20                  law, upon his oath, testified as follows:  
21  
22                  MR. MICHAEL: And just for the record  
23 I'm only here observing. So without noting it to the  
24 court reporter, I may just click off and Ed is going  
25 to, Mr. Burch is going to conduct the deposition. So

6

1 I may appear and disappear and then appear back, but  
2 I don't think it's relevant to the deposition itself.  
3                  MR. BURCH: Okay. Everybody ready?  
4                  MR. BAIN-CREED: Ed, can we, can we  
5 just agree to preserve all objections except as to  
6 form?  
7                  MR. BURCH: Of course.  
8                  MR. BAIN-CREED: Right.  
9                  MR. BURCH: Sounds good.  
10  
11 EXAMINATION BY MR. BURCH:  
12  
13                  Q.       Okay. So let's see. Dr. -- Dr.  
14 Lareau, is that an appropriate way to address you?  
15                  A.       Yes.  
16                  Q.       Okay. So we're here on this case  
17 United States versus 252 some odd thousand dollars  
18 regarding stemming from the seizure of -- of this  
19 money from Darren Coleman in 2016.  
20                  Does this sound familiar to you?  
21                  A.       Yes.  
22                  Q.       Okay, good.  
23                  Have you been deposed before?  
24                  A.       I have not. I've testified at a  
25 federal trial, but not in a separate deposition

7

**LAREAU - Burch**

1 before.  
2                  Q.       Okay. Well, so I'll just really  
3 quickly go through a couple of, you know, kind of  
4 background logistic kind of preliminary things, but  
5 civil deposition you've just taken the oath. You're  
6 under oath. So it's just like court in a sense that  
7 you're under penalty of perjury.  
8                  Does that make sense?  
9                  A.       Yes. Understood.  
10                  Q.       Okay. And as a matter of being  
11 efficient, it's best -- the court reporter is  
12 obviously taking down every word that you say. So we  
13 shouldn't talk at the same time and so I will do my  
14 best to let you finish all of the answers to the  
15 questions, and just ask that, you know, you let me  
16 finish my questions and we'll try not to speak over  
17 each other.  
18                  Is that fair?  
19                  A.       Yes, it is.  
20                  Q.       Okay, great.  
21                  And another thing I like to kind of go  
22 over at the beginning is that, you know, I'll  
23 probably ask a fair amount of questions that I know  
24 the answer to probably or they're very obvious  
25 seeming to you, for example, but I just let the

8

**LAREAU - Burch**

1 deponent know that, you know, I'm making a record and  
2 I wouldn't read necessarily too much into any  
3 question, but at the same time if I ask a question  
4 that's unclear, please definitely let me know so that  
5 I can get you a good question that you understand  
6 before you -- before you answer it.  
7                  Does that all make sense?  
8                  A.       Yes, it does.  
9                  Q.       Okay. Now, before we get started with  
10 the sort of nuts and bolts or the substance, I should  
11 say, are you ill or on any medication or anything  
12 like that, that would prevent you from understanding  
13 questions or otherwise giving your best testimony  
14 today?  
15                  A.       No.  
16                  Q.       Okay.  
17                  A.       I am healthy today.  
18                  Q.       Great. Glad to hear it.  
19                  THE REPORTER: Excuse me. I didn't  
20 hear you.  
21                  A.       I am healthy. No problem.  
22 BY MR. BURCH:  
23                  Q.       Okay. So to start with, how many  
24 times have you been retained to testify as an Ionscan  
25 machine expert for a judicial case?

<p style="text-align: right;">9</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 A. One other as far as for a judicial</p> <p>2 case, so it was the case in Harrisburg, Pennsylvania.</p> <p>3 Q. That's the <u>United States versus</u></p> <p>4 <u>Lackey</u>. Is that right?</p> <p>5 A. Correct. Yes.</p> <p>6 Q. Okay. So I think that answers my</p> <p>7 other question. You've never testified on behalf of</p> <p>8 a defendant or the defense in any kind of Ionscan</p> <p>9 case?</p> <p>10 A. Not an Ionscan case, no.</p> <p>11 Q. Have you testified on -- sorry about</p> <p>12 that.</p> <p>13 Have you testified on behalf of the</p> <p>14 defense in any type of case? And let me be a little</p> <p>15 bit more specific. As an -- as an expert witness on</p> <p>16 any kind of toxicology chemistry type of thing?</p> <p>17 A. So there's two cases; one that's closed</p> <p>18 up now is a fireworks case where I was on the defense</p> <p>19 side to help put together expert witness information</p> <p>20 on, on the fireworks or the ingredients of it which</p> <p>21 are explosive material.</p> <p>22 And I'm currently on a Department of</p> <p>23 Defense military explosive defense team where I'm the</p> <p>24 expert witness for explosive materials.</p> <p>25 Q. Okay. And what -- for the fireworks</p>	<p style="text-align: right;">11</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 Ionscan, but it's an IMS 500DT system.</p> <p>2 Q. Okay. So what's -- what's a good</p> <p>3 short way to call it for use so that we just are</p> <p>4 consistent?</p> <p>5 A. Probably IMS is what it's known as.</p> <p>6 Q. IMS? Okay. I'll do my best to do</p> <p>7 IMS. I had it in my mind as Smiths, but I'll</p> <p>8 say IMS.</p> <p>9 A. Whichever you're comfortable with. I,</p> <p>10 I can -- I'll know what you're referring to.</p> <p>11 Q. All right. One of those two, I think</p> <p>12 we'll get.</p> <p>13 So with the IMS machine, tell me if</p> <p>14 this is fair. The basic way that it works is that an</p> <p>15 operator is going to take a swab and they're going to</p> <p>16 wipe it on something, and then they're going to place</p> <p>17 that swab into the machine, the machine is going to</p> <p>18 heat up, and it's going to give you a reading of some</p> <p>19 numbers. Is that fair?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And so the numbers that the IMS</p> <p>22 machine gives you are -- are what, what type of</p> <p>23 measurement?</p> <p>24 A. Well, they're a measurement on an</p> <p>25 alarm, let's say, of what a threat compound would be,</p>
<p style="text-align: right;">10</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 case, is that -- what court is that?</p> <p>2 A. That was a -- boy, in Michigan in</p> <p>3 municipal court. It was a civil case.</p> <p>4 Q. About what year; do you remember?</p> <p>5 A. Well, that for me that started in -- in</p> <p>6 2019. So all the work, all the parts I was involved</p> <p>7 with were in the year 2019.</p> <p>8 Q. Okay. And just for the record you</p> <p>9 have a rough name of that case?</p> <p>10 A. I do not. I would have to look it up</p> <p>11 to find out what the actual name of the case was.</p> <p>12 Q. Okay. Well, perhaps we can do</p> <p>13 supplement if it becomes something that we'd really</p> <p>14 need to know, but let's go ahead and move on.</p> <p>15 Have you ever been approached by -- by</p> <p>16 a district attorney or any kind of prosecutorial</p> <p>17 agent, to be an expert witness for an Ionscan machine</p> <p>18 or Ionscan results and declined to testify?</p> <p>19 A. No.</p> <p>20 Q. Okay. So I kind of want to get into</p> <p>21 this case a little bit more now. In this case what</p> <p>22 you gave your opinion on was what's called a Smiths</p> <p>23 Ionscan machine. Is that correct?</p> <p>24 A. That's correct. Smiths Detection is a</p> <p>25 manufacturer and it is a -- it's referred to as</p>	<p style="text-align: right;">12</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 so cocaine, methamphetamine, heroin, whatever it would</p> <p>2 detect on, what explosive material.</p> <p>3 Q. Okay.</p> <p>4 A. The actual -- go ahead.</p> <p>5 Q. Well, I was just going to ask in this</p> <p>6 case I'd sort of like to focus on the cocaine. So</p> <p>7 I'm going to say that like unless I -- unless I</p> <p>8 specify otherwise I'm going to be asking about</p> <p>9 cocaine in relation to the IMS machine.</p> <p>10 So in the instance of cocaine, it --</p> <p>11 do you have to set the IMS machine to -- to cocaine</p> <p>12 to give -- to get some reading that will tell you</p> <p>13 anything about cocaine?</p> <p>14 A. You as the operator don't have to set</p> <p>15 anything. The instrument, when it's sold from Smiths</p> <p>16 Detection, will have an algorithm and typically</p> <p>17 there's explosives and drugs, and in the drugs there</p> <p>18 could be 20 or 40 compounds, cocaine being one of</p> <p>19 them. So it's already in there ready to alarm unless</p> <p>20 your organization decides to shut those threats off,</p> <p>21 but they are on.</p> <p>22 Q. I understand. So if indeed,</p> <p>23 hypothetically, you give it a -- some -- the operator</p> <p>24 takes a swab, puts it in, gets a reading, cocaine</p> <p>25 pops up, let's say it alarms for cocaine, is that an</p>

<p style="text-align: right;">13</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 accurate way to say it?</p> <p>2 A. Yes. Correct.</p> <p>3 Q. Okay. So it alarms for cocaine.</p> <p>4 What -- it's going to spit out some numbers, correct?</p> <p>5 A. Yes.</p> <p>6 Q. What's the measurement of those</p> <p>7 numbers that it's giving you?</p> <p>8 A. So it -- it on the screen it would</p> <p>9 probably just have a red alarm color to it, and it</p> <p>10 would probably say cocaine and it may tell you, may or</p> <p>11 may not tell you on the screen what the strength is</p> <p>12 depending how it's set up. There is a printout that</p> <p>13 comes with those results if you print it out, and it's</p> <p>14 stored with every alarm and on there it gives you more</p> <p>15 details of what that cocaine alarm is.</p> <p>16 Q. Okay. So in this case we did have</p> <p>17 some numbers. I'm skipping ahead a little bit, but</p> <p>18 we did get -- we did some printouts in this</p> <p>19 particular case, correct?</p> <p>20 A. That's correct.</p> <p>21 Q. And so we got some numbers there.</p> <p>22 A. Yes.</p> <p>23 Q. What numbers are we getting, did we</p> <p>24 get in this case?</p> <p>25 A. Okay. So there's a number of types of</p>	<p style="text-align: right;">15</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 mean, I guess -- well, maybe -- can I ask the court</p> <p>2 reporter a question?</p> <p>3 THE REPORTER: Sure.</p> <p>4 MR. BURCH: What -- what -- what is</p> <p>5 the best way for you in terms -- I kind of premarked.</p> <p>6 I only have 1 through 6 on the exhibits. In terms of</p> <p>7 just marking them and introducing them, should I --</p> <p>8 if we go out of order should I stick with my</p> <p>9 numbering or do we just go in the chronological order</p> <p>10 that they come up with?</p> <p>11 THE REPORTER: No. I would stick with</p> <p>12 the numbers that you gave them.</p> <p>13 MR. BURCH: Okay. All right.</p> <p>14 THE REPORTER: And then I'll just list</p> <p>15 them on the index page and I will mark them after the</p> <p>16 deposition is over.</p> <p>17 MR. BURCH: All right.</p> <p>18 THE REPORTER: So I'm going to keep</p> <p>19 with the numbers that you gave them.</p> <p>20 MR. BURCH: Okay. I gotcha you.</p> <p>21 BY MR. BURCH:</p> <p>22 Q. All right. So we're on what I have</p> <p>23 marked as number 2 and I'm on page 8 of that. And,</p> <p>24 Dr. Lareau, that section 9.0 there, it's sort of in</p> <p>25 the middle of the page, you talk about your -- the</p>
<p style="text-align: right;">14</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 numbers that come out. There's a percent strength for</p> <p>2 cocaine that could be 15, 20 percent of, of an alarm.</p> <p>3 There's also if you look at any one of the printouts</p> <p>4 there's a channel for cocaine, a channel for cocaine</p> <p>5 high, and there are a number of -- there's a number of</p> <p>6 sequence of numbers that are associated with that</p> <p>7 printout from the drift time, the Delta, the</p> <p>8 cumulative A, how many channels it alarmed on, et</p> <p>9 cetera and its strength.</p> <p>10 Q. All right. So -- well, let's see.</p> <p>11 Let me go ahead and pull up -- maybe do it this way.</p> <p>12 I'm going to pull up your case report. I'm assuming</p> <p>13 you have a copy of it there?</p> <p>14 A. I do, yes.</p> <p>15 Q. Okay. So when we -- I'm going to skip</p> <p>16 to page -- page 8, the top there and you talk</p> <p>17 about -- the first printout, I wonder if we should</p> <p>18 mark that.</p> <p>19 MR. BAIN-CREED: When you and David</p> <p>20 sent me the exhibits for Dr. Lareau last night and</p> <p>21 Dr. Rose, I E-mailed them late last night. So Dr.</p> <p>22 Lareau should have the E-mail from you with your</p> <p>23 exhibit numbers. So this would be number 2 on your</p> <p>24 exhibit numbers.</p> <p>25 MR. BURCH: Oh, right. Okay. And I</p>	<p style="text-align: right;">16</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 first printout essentially being a sort of blank or</p> <p>2 to make sure the machine is working. Is that</p> <p>3 accurate?</p> <p>4 A. Yes. It's called a verification run to</p> <p>5 make sure the instrument is working properly.</p> <p>6 Q. Okay. So the next one is the first</p> <p>7 sample that they actually tested, which was the</p> <p>8 currency, and if I skip to kind of the fifth line</p> <p>9 there it talks about the sample gives you a 1394.</p> <p>10 What is that measurement?</p> <p>11 A. I'm looking for where that number --</p> <p>12 oh, all right. I see it. So that's under the cocaine</p> <p>13 alarm and the 1394 is a cumulative digital number</p> <p>14 which is supposed to represent counts per second of</p> <p>15 how much strength has come up for cocaine under that</p> <p>16 one peak.</p> <p>17 Q. Okay. And if -- so then if we go to</p> <p>18 what I've marked as number 3, which was the actual</p> <p>19 results that the law enforcement officers provided,</p> <p>20 correct?</p> <p>21 A. Yes.</p> <p>22 Q. Where do we -- and we see that, we see</p> <p>23 that, presumably we see that 1394?</p> <p>24 A. Yes. So if you're scrolling through</p> <p>25 the Ionscan printouts the first one is verification.</p>

<p style="text-align: right;">17</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 The next one that comes up says bundles of currency,  2 and under that one toward the bottom last part of the  3 printout is the cocaine with a cumulative A 1394.  4 Q. Okay. That's I have a Bates number  5 there. It's USA000092, correct?  6 I think I lost audio.  7 A. Are you asking me or are you asking --  8 Q. Dr. Lareau, I'm asking you the Bates  9 number that you see there at the bottom is basically  10 92, right, the bottom right?  11 MR. BAIN-CREED: Dr. Lareau, the Bates  12 number is the number on the bottom right.  13 THE WITNESS: Yeah. I just found it.  14 Yes.  15 MR. BURCH: Okay. Just for the record  16 I want to make sure we're looking at the same thing.  17 THE WITNESS: Yes, it is.  18 BY MR. BURCH:  19 Q. Okay. So I don't want to jump back to  20 the typical or proper use of an IMS machine. Well,  21 let me ask one follow-up. That's -- that's the --  22 those counts per second are what your opinion is  23 mostly focused on in this case when you get to your  24 ultimate opinion, that's what you're really looking  25 at, correct?</p>	<p style="text-align: right;">19</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 How hard should an operator swipe any  2 particular sample to get a good readout on an IMS  3 machine?  4 A. That's a great question. The actual  5 value of it, I think and I was just writing a book  6 chapter on this around three to five new pressure  7 which goes across, which means nothing to most people.  8 The basic advantage of this instrument,  9 it's a sampling wand. It's not just a piece of  10 material you're sampling with. So there's a wand.  11 There's a number of reasons to use the wand, but also  12 part of the reason is it gives a little focal, little  13 ability to be able to push down on the material as  14 you're sampling. So you don't have to put a lot of  15 strength on it, but you have to put a little bit of  16 strength as you're sampling off of a surface.  17 Q. Okay. And so does the amount of  18 pressure that the operator applies to any given  19 sample, would that affect the results you're going to  20 get?  21 A. It could in the fact that if -- that it  22 will vary. So if I'm pressing a little harder or a  23 little lighter then the number may vary a little. It  24 doesn't take much to pick up one or two little  25 particles to give a reasonable alarm.</p>
<p style="text-align: right;">18</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 A. Well, that's part of the data. It is  2 looking at that, it's looking at the alarm strength,  3 which is actually calculated from the cocaine level  4 and take into consideration the background level,  5 noise level of the instrument. So that in this  6 particular case it came up to, if you move to the top  7 of that printout you see cocaine 14 percent.  8 Q. Okay. And then I see at the bottom of  9 that first paragraph on your report that you talk  10 about the first sample, it says resulting in a 14  11 percent "Alarm Rate."  12 A. That's right.  13 Q. So that's the strength. So those are  14 two different things that are being measured?  15 A. It's just a different calculation. So  16 one is looking at what the counts per second of the  17 Alzion peak is for that mass for cocaine. The other  18 doing is calculation of taking that peak subtracting  19 out the background times 100, and it comes up to 14  20 percent. And so it's -- it's the same data. It's  21 just different ways of calculating it to show what the  22 alarm is compared to background.  23 Q. I understand.  24 Okay. So on a -- how hard does one,  25 does an operator or let me say it again.</p>	<p style="text-align: right;">20</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 So, you know, you certainly don't want  2 to just dust like you're dusting at home with no  3 pressure. You have to have a little bit of pressure  4 to it.  5 Q. Okay.  6 A. This is typically part of the training  7 that's Smiths Detection would employ when someone is  8 getting the instrument and being trained on how to  9 take sampling.  10 Q. Okay. So in, I think I'm going --  11 sorry if this is bouncing around a bit. I'm going to  12 jump ahead to your ultimate opinion. I'm going to  13 try in my words, I'm going to try to say what your  14 opinion is. I want you to tell me if this is fair,  15 if there's anything inaccurate about it.  16 Ultimately, you look at the samples  17 and the readouts and you come to an opinion that the  18 252 some odd thousand dollars that we're talking  19 about in this case, it yielded a cocaine alarm at a  20 higher amount or at a higher strength than of what  21 you would expect from currency in general  22 circulation.  23 Is that a fair statement of what your  24 opinion is?  25 A. Yes, it is.</p>

<p style="text-align: right;">21</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 Q. Okay. And so is it -- I kind of did</p> <p>2 the alternative. So is it the higher amount or is it</p> <p>3 higher strength or does that even matter?</p> <p>4 A. It -- it probably doesn't matter</p> <p>5 because they're both correlated to each other. So</p> <p>6 it's a higher amount than you'd expect there. It's a</p> <p>7 higher strength than you would ever expect there. So,</p> <p>8 you know, they're almost similar terms, but yes. It's</p> <p>9 certainly higher in either -- either word you want to</p> <p>10 use than should be there in typical currency.</p> <p>11 Q. Okay. So this -- this opinion is</p> <p>12 based from some casual contact data from the case in</p> <p>13 Pennsylvania that you testified in, correct?</p> <p>14 A. Partially. It's -- it's -- it's based</p> <p>15 on that, but it's also based on a number of references</p> <p>16 I put into this report, meaning scientific</p> <p>17 publications that have shown what the -- what a</p> <p>18 quantitative level might be a currency. There's also</p> <p>19 a couple of them have talked about IMS strengths in</p> <p>20 the fact that if you're sampling and you see, you</p> <p>21 know, two, three nanograms then that might be a</p> <p>22 background level, but if you see something much larger</p> <p>23 than that, then that's a real hit correlated to</p> <p>24 something that's typically not supposed to be there, a</p> <p>25 potential criminal activity or -- or cocaine strength</p>	<p style="text-align: right;">23</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 A. Yes.</p> <p>2 Q. And is it a fair statement that the</p> <p>3 other studies that he goes through show a</p> <p>4 significantly higher amount of cocaine on currency</p> <p>5 than what's in the Jourdan?</p> <p>6 A. No, I wouldn't state that. I would</p> <p>7 state they have different approaches. So the other</p> <p>8 papers are not using IMS or any correlation to IMS.</p> <p>9 They're doing total concentration of extracting off</p> <p>10 particles, all that contamination off of a currency,</p> <p>11 and then quantitating with GS mass spec to come up</p> <p>12 with quantitative numbers, and that's a valid way to</p> <p>13 find out what that number is.</p> <p>14 In the Jourdan case, they took data from</p> <p>15 the FBI that had some of those numbers. They also</p> <p>16 correlate IMS data, and showed a correlation to what</p> <p>17 would be a background level, let's say in the United</p> <p>18 States and they're saying around two to three</p> <p>19 nanograms which is -- is a reasonable number. It</p> <p>20 actually agrees with what's in this detection, sets</p> <p>21 their instruments to. And then they correlated to</p> <p>22 that the FBI study showing FBI studies of criminal</p> <p>23 cases versus just general public cases.</p> <p>24 Q. Well, okay. So I'm doing my best as a</p> <p>25 lawyer to follow the scientific stuff, but you said</p>
<p style="text-align: right;">22</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 that should never be there on common currency.</p> <p>2 Q. Okay. So what you're talking about</p> <p>3 peer-reviewed published studies?</p> <p>4 A. Yeah. So if you go to the next page on</p> <p>5 my report, I'm sorry, from that final page. So it's</p> <p>6 the list of references on my page 10.</p> <p>7 Q. I'm with you.</p> <p>8 A. So the second one in particular by</p> <p>9 Jourdan, Thomas Jourdan invokes was probably the most</p> <p>10 statistical paper out there to date on U.S. currency.</p> <p>11 They studied currency from, like 44 U.S. states and</p> <p>12 have over 4,100 data points and did both qualitative</p> <p>13 IMS, but also worked with the FBI on quantitative</p> <p>14 numbers and it's a good reference that supports my</p> <p>15 findings along with the background information from</p> <p>16 the case in Pennsylvania. It's a little of both.</p> <p>17 Q. Okay. And I see that you have the</p> <p>18 "Drug Contamination of U.S. Paper Currency"...by</p> <p>19 Poupko there?</p> <p>20 A. Yes. Correct.</p> <p>21 Q. So you're familiar with that?</p> <p>22 A. Yes.</p> <p>23 Q. And aside from the Jourdan study,</p> <p>24 Poupko goes through a number of other studies that</p> <p>25 have found cocaine on currency in the United States?</p>	<p style="text-align: right;">24</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 that the Jourdan study gave you a background amount</p> <p>2 of nanograms, correct?</p> <p>3 A. That's correct.</p> <p>4 Q. Okay. And so when we look at the IMS</p> <p>5 machine results in this case, do we -- of a nanogram</p> <p>6 amount reading on there on these pieces of paper that</p> <p>7 are marked as number three?</p> <p>8 A. Right. So there is no -- not</p> <p>9 nanograms. They have their as a percent strength or</p> <p>10 in cumulative counts per second.</p> <p>11 What this other study was they</p> <p>12 correlated it and you can with IMS systems correlate</p> <p>13 to concentration number, and Smiths Detection is done</p> <p>14 the same thing. They set their back understand grow</p> <p>15 of cocaine around 50 counts per second. That's based</p> <p>16 out about half of a nanogram. That's from</p> <p>17 conversations I've had with their experts. So you can</p> <p>18 correlate it and these printouts and typically what is</p> <p>19 used out in the field they just see alarm and alarm</p> <p>20 strength, not a correlation to nanograms.</p> <p>21 Q. Okay. So you said something about you</p> <p>22 had conversations with, I forget the terms you used,</p> <p>23 conversations with somebody that gave you some</p> <p>24 information that helped you put this together?</p> <p>25 A. Yes. So I have that in my report.</p>

<p style="text-align: right;">25</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 There are two experts from Smiths Detection that I</p> <p>2 talk to. Actually a lot of it was for the previous</p> <p>3 case in Pennsylvania, just so I had more information</p> <p>4 on how the algorithms worked, meaning the printouts</p> <p>5 and what every single part of it means, and so</p> <p>6 that's -- that's what I was referring to, the two</p> <p>7 experts from Smiths Detection. They are people who</p> <p>8 know the ins and outs of the instrument and how the</p> <p>9 algorithms, the alarms are set up and strengths and</p> <p>10 the nitty details of the instrument from the</p> <p>11 manufacturer.</p> <p>12 Q. Okay. And that's I want to say Lena</p> <p>13 Kim was one of them, correct?</p> <p>14 A. Lena Kim was one, and Reno Debono was</p> <p>15 the other, yes.</p> <p>16 Q. Okay. Well, I was going to get to</p> <p>17 that a little bit later, but I guess since it came</p> <p>18 up, what I did want to ask you about that is, is</p> <p>19 there -- your references starting with the -- where</p> <p>20 are we with that? Let's see if I can find it really</p> <p>21 quick. What page is that on? Page 8. Pardon me.</p> <p>22 Give me one second here.</p> <p>23 Says your reference is to a private</p> <p>24 communicate with Smiths Detection technical experts,</p> <p>25 Ms. Lena Kim, Toronto, Canada, right?</p>	<p style="text-align: right;">27</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 I want to say his name is Reno? Correct me.</p> <p>2 A. Reno Debono, yes.</p> <p>3 Q. Okay. And so it's the same thing.</p> <p>4 Well, let me just ask it this way. You got some</p> <p>5 background information that informs on your opinion</p> <p>6 from that person, correct?</p> <p>7 A. Doesn't inform on the opinion. It</p> <p>8 helps me to understand what the parameters were to set</p> <p>9 up for the detection of the instrument. So, you know,</p> <p>10 as an example the Ko and the D time that's listed on</p> <p>11 there, I believe I knew what it was, but I wanted to</p> <p>12 talk with them to -- to know what every single part of</p> <p>13 that printout was, because if I'm testifying as an</p> <p>14 expert I should know everything that's on that</p> <p>15 plasmagram, on that printout.</p> <p>16 Q. Okay. And so with Dr. Reno Debono,</p> <p>17 let's see, the reference is to also private</p> <p>18 communications?</p> <p>19 A. Right.</p> <p>20 Q. Do you have -- is there any written</p> <p>21 memorialization of the private communications?</p> <p>22 A. There's not. I've been working with</p> <p>23 Reno on a book chapter recently on trace detection and</p> <p>24 IMS detection. And so I'm a trace detection expert.</p> <p>25 He's a true IMS expert and together we've been going</p>
<p style="text-align: right;">26</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 A. That's correct.</p> <p>2 Q. Okay. So this communicate, is there</p> <p>3 any written memorialization of the communicate?</p> <p>4 A. No. Only it was a verbal phone call</p> <p>5 and I wrote some just a couple notes for numbers for</p> <p>6 myself, but no -- no -- no written communication on</p> <p>7 it.</p> <p>8 Q. Okay. But you do have notes that you</p> <p>9 wrote for yourself. Did you retain them?</p> <p>10 A. Well, they're not really -- I wouldn't</p> <p>11 say they're notes. I -- I took the -- the printouts</p> <p>12 from the other case, like the -- either the printouts</p> <p>13 of the IMS instrument or the casual contact numbers,</p> <p>14 and I just wrote at the bottom, you know, the numbers</p> <p>15 that Smiths Detection had set up to correlate what</p> <p>16 they had set for a concentration or an alarm level,</p> <p>17 and they're really --</p> <p>18 Q. Okay. So is it --</p> <p>19 A. Well, they're -- it was really a verbal</p> <p>20 thing. Afterwards and I should have really,</p> <p>21 afterwards I did not sit and write myself a report on</p> <p>22 the conversation of it. I wasn't as organized then as</p> <p>23 I think I am now.</p> <p>24 Q. Fair enough.</p> <p>25 So I have the same questions then for,</p>	<p style="text-align: right;">28</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 back and -- and putting this chapter together that's</p> <p>2 going to go into a book. So some of the background on</p> <p>3 how the instrument, how the science works I've -- I've</p> <p>4 gained and he's gained from me back and forth. So</p> <p>5 those communications have all been really verbal in</p> <p>6 the last six months just for putting this book chapter</p> <p>7 together.</p> <p>8 Q. Okay. I'm going to go back to where I</p> <p>9 think my organization was before and -- and take a</p> <p>10 step back. You said, I believe you testified that</p> <p>11 your opinion in part is informed by the data, the</p> <p>12 casual contact data that you got from the</p> <p>13 Pennsylvania case, correct?</p> <p>14 A. Yes, in part. Yes.</p> <p>15 Q. In part.</p> <p>16 Okay. So this is a federal court case</p> <p>17 in which you ultimately testified as an expert on the</p> <p>18 IMS machine?</p> <p>19 A. Correct.</p> <p>20 Q. Okay. And it's this <u>United States</u></p> <p>21 <u>Lackey</u> that is referenced in your report?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. And that -- so where did you</p> <p>24 actually get -- let's see. There's a couple charts</p> <p>25 at the end of your report, correct?</p>

<p style="text-align: right;">29</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 A. Yes.</p> <p>2 Q. And so if I go -- let's -- let's kind</p> <p>3 of get that established. So on page 12 I see</p> <p>4 Commonwealth of Pennsylvania 2017 Casual Contact.</p> <p>5 A. Right.</p> <p>6 Q. So are you with me there?</p> <p>7 A. I am.</p> <p>8 Q. That is what you got from this</p> <p>9 Pennsylvania case, correct?</p> <p>10 A. Yes. There's actually two pages, 12</p> <p>11 and 13. 12 is actually the data for casual contact</p> <p>12 background information for cocaine, where 13 is the</p> <p>13 same kind of data but for meth. So I put that in</p> <p>14 because they both were attached together.</p> <p>15 Q. And if I go to, it must be page --</p> <p>16 what is that? Is it just a blowup on the -- on the</p> <p>17 following page of the cocaine?</p> <p>18 A. It is. It is, correct.</p> <p>19 Q. Okay, good. That's what I thought.</p> <p>20 So I will proceed on that.</p> <p>21 Where are we? So if -- did you get</p> <p>22 these from Sergeant Boltz?</p> <p>23 A. I -- I did. They come from the</p> <p>24 Pennsylvania National Guard, and since then I've been</p> <p>25 in contact with her and I've been trying to reach out</p>	<p style="text-align: right;">31</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 in this chart or is it all from the testimony?</p> <p>2 A. It's -- most of it's from the</p> <p>3 testimony. I did talk to her while we were waiting</p> <p>4 for the case, in the hallway, to get a little bit more</p> <p>5 information about how they take their data and what</p> <p>6 some of the numbers are on there.</p> <p>7 She is -- she is a trained operator and</p> <p>8 not a scientist or a technologist. So I know a lot</p> <p>9 more details than she probably does, and so as an</p> <p>10 example in her testimony she was talking, referring to</p> <p>11 these as nanograms in her testimony, when in reality</p> <p>12 they're counts per second or digital units just like</p> <p>13 we looked at in the printout.</p> <p>14 Q. Okay. So I was actually going to ask</p> <p>15 you about that. So you're saying that when she says</p> <p>16 number of times in her testimony that the numbers on</p> <p>17 this chart are nanograms you're saying that she's</p> <p>18 wrong?</p> <p>19 A. Yeah. I mean, they're correlated to</p> <p>20 nanograms. She -- she didn't realize 'cause I told</p> <p>21 her later that they're not really nanograms. They're</p> <p>22 taking from the same IMS charts like you showed</p> <p>23 previously and so they're counts per second, they're</p> <p>24 correlation to nanograms, but they're counts per</p> <p>25 second.</p>
<p style="text-align: right;">30</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 to the four commanders of the National Guard of the</p> <p>2 United States to gather more background data.</p> <p>3 Unfortunately, they've been too busy with this</p> <p>4 pandemic, so I haven't received more data yet.</p> <p>5 Q. And so this chart that we're looking</p> <p>6 at, I'm just going to go ahead and use the page 12</p> <p>7 one that's a little bit smaller, since it's right</p> <p>8 here, but Sergeant Boltz was personally responsible</p> <p>9 for actually doing the samples and gathering the</p> <p>10 data, correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. Her name is Sergeant Kimberly</p> <p>13 Boltz; is that right?</p> <p>14 A. Yes. Yes.</p> <p>15 Q. Okay. And in that case <u>United States</u></p> <p>16 <u>versus Lackey</u> where you first got privy or hip to</p> <p>17 this -- this data, Sergeant Boltz, you actually</p> <p>18 listened to Sergeant Boltz testify about this chart?</p> <p>19 A. Yes.</p> <p>20 Q. Did you not?</p> <p>21 A. I did.</p> <p>22 Q. Okay. And you sort of already</p> <p>23 answered my follow-up question, but the question was</p> <p>24 did you have separate communications with her that</p> <p>25 informs on how they got these casual contacts numbers</p>	<p style="text-align: right;">32</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 It's still a hundred percent valid of</p> <p>2 what she's testifying for, because she's trying to set</p> <p>3 up what is a background or a casual background level</p> <p>4 of currency that's out there for U.S. dollars.</p> <p>5 Q. Okay. So Sergeant Boltz from what I</p> <p>6 understand and in her testimony, the way she went</p> <p>7 about getting the samples and getting these numbers</p> <p>8 is that she went around and got bills from different</p> <p>9 places in each of these counties and she got 24 bills</p> <p>10 from each county. Is that correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. And did she swab -- well, let</p> <p>13 me say it this way. So she gets -- it's basically a</p> <p>14 fairly simple arithmetic in the sense that, for</p> <p>15 instance, if I take the first one Cameron County you</p> <p>16 have 24 samples, and she gets a Total MaxA, which is</p> <p>17 1425 to get a County Average of 59.38. So she</p> <p>18 basically does 24 tests. She gets this total number</p> <p>19 of MaxA, and then gives you an average in that last</p> <p>20 column, correct?</p> <p>21 A. Correct.</p> <p>22 Q. Okay. So your understanding is that</p> <p>23 that MaxA and the county average are counts per</p> <p>24 second?</p> <p>25 A. Yes. Smiths Detection might refer to</p>

<p style="text-align: right;">33</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 it as digital units, but basically counts per second.</p> <p>2 Q. Okay. So did Sergeant Boltz -- she</p> <p>3 got 24 -- 24 bills, and each time she sampled she</p> <p>4 swabbed one bill, correct?</p> <p>5 A. To the best of my knowledge, that's</p> <p>6 correct. Yes.</p> <p>7 Q. Okay. So did you ever -- this</p> <p>8 chart -- well, let me take it step by step. This</p> <p>9 chart doesn't give you the high or the low of any</p> <p>10 sample, correct?</p> <p>11 A. That's correct. That's right. These</p> <p>12 are totaled and averaged values.</p> <p>13 Q. And did -- do you ever get any -- any</p> <p>14 data or information about the highs or the lows or</p> <p>15 you only have what's on the chart?</p> <p>16 A. I only have what's on the chart. I've</p> <p>17 been after the real data. I'm a scientist and like to</p> <p>18 work with statistics, so I'm after the real data. I</p> <p>19 just haven't been able to get it yet.</p> <p>20 Q. Fair enough. Excuse me.</p> <p>21 But I did see in her testimony, and I</p> <p>22 guess my question is do you recall that in fact she</p> <p>23 testified that when she was doing these casual</p> <p>24 contact tests, she often saw -- let me not say often.</p> <p>25 She saw over a thousand come up from these casual</p>	<p style="text-align: right;">35</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 through 23 with the context that came before it, is</p> <p>2 that from these casual contact -- sorry, from these</p> <p>3 casual contacts tests that she did, there were</p> <p>4 oftentimes where a sample would give her a reading of</p> <p>5 over a thousand, correct?</p> <p>6 A. So I am not certain whether she means</p> <p>7 that or whether she's answering the question in</p> <p>8 general what's the highest reading you've ever seen</p> <p>9 from currency for cocaine.</p> <p>10 I know -- well, I was probably nervous</p> <p>11 too testifying, but she was nervous. So I'm not</p> <p>12 certain whether that really means from the background</p> <p>13 casual contact study or just in general. And it could</p> <p>14 be from the casual contact.</p> <p>15 Q. And I don't know if this helps at all.</p> <p>16 The next -- if you go to the very next page starting</p> <p>17 at -- well, actually why don't you -- it's not so</p> <p>18 long, so why don't you just go ahead and please read</p> <p>19 that next page 21 for me.</p> <p>20 A. Okay.</p> <p>21 Q. And let me know when you're finished.</p> <p>22 A. Yes, I'm finished.</p> <p>23 Q. So I don't know if this is the -- I</p> <p>24 don't know how I want to ask this, but she's</p> <p>25 basically and if you look at line 12 through 16, I</p>
<p style="text-align: right;">34</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 contacts, a reading of over a thousand come up,</p> <p>2 correct?</p> <p>3 A. I don't recall that. I'd have to go</p> <p>4 back to the testimony and see if I could find that</p> <p>5 part.</p> <p>6 Q. Well, I think I'm going to help you</p> <p>7 and because I've got a note about it, let me see and</p> <p>8 I have the transcripts marked as number 5. So do you</p> <p>9 have that and can you pull it up?</p> <p>10 A. I do have it.</p> <p>11 Q. Okay. So let me -- let me open that</p> <p>12 up. So if we go to -- well, it's page 20 on the top</p> <p>13 right, but I believe it might have been on day 2. So</p> <p>14 I'm trying to see. It's page 35 of the PDF if that</p> <p>15 makes any sense to you.</p> <p>16 A. Okay.</p> <p>17 Q. So I'm going to ask you to read that,</p> <p>18 what's page 20 of the day 2 transcript starting at</p> <p>19 line 19. Are you finding it?</p> <p>20 A. I am finding it, yes.</p> <p>21 Q. Okay. Okay. Let me know when you're</p> <p>22 finished.</p> <p>23 A. I am finished.</p> <p>24 Q. Okay. So my -- when I read through</p> <p>25 this transcript I understood that bit lines 19</p>	<p style="text-align: right;">36</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 guess she's asked a question about averages.</p> <p>2 A. Right.</p> <p>3 Q. And so, and she -- she kind of accedes</p> <p>4 to the fact that, you know, if you have -- what's the</p> <p>5 example he gives? If you have five bills.</p> <p>6 A. Yup.</p> <p>7 Q. One of them alarms over a thousand,</p> <p>8 other at zero, then you still get an average of 250.</p> <p>9 So she -- well, I don't even know if there's a fair</p> <p>10 question.</p> <p>11 Does that influence your belief in</p> <p>12 terms of whether or not she got a reading of over a</p> <p>13 thousand for the casual contacts or not?</p> <p>14 A. Not necessarily.</p> <p>15 Q. Okay.</p> <p>16 A. More of a question of how does the</p> <p>17 averaging work is what he was -- what he was after.</p> <p>18 Q. Okay. Fair enough.</p> <p>19 I'm going to just -- I -- I don't</p> <p>20 think I can ask you to get inside her head, so I</p> <p>21 think I'll move on.</p> <p>22 And then in this -- in this particular</p> <p>23 case I want to -- I'm sorry. I'm trying to try to</p> <p>24 find the right organization, but I want to get into</p> <p>25 in this case you -- the machine was set to 500,</p>

<p style="text-align: right;">37</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 correct?</p> <p>2 A. Well, in this case the machine is set</p> <p>3 up to whatever the Homeland Security had it set to or</p> <p>4 Smiths Detection. So it -- it -- it may have been,</p> <p>5 have an alarm setting of 50. It may have a setting of</p> <p>6 500. I was just going by, you know, really high</p> <p>7 numbers would be, you know, something that's over 500</p> <p>8 just by going by the past case and look and just being</p> <p>9 fair saying that a real high number is something</p> <p>10 that's over 500.</p> <p>11 You could still have a real cocaine hit</p> <p>12 at 400 as an example and the system might alarm at</p> <p>13 that. I'm not certain what it was set to. I would</p> <p>14 guess it was probably set at 50 to 100 count alarm</p> <p>15 level.</p> <p>16 Q. Okay. So this is -- this is perhaps</p> <p>17 my only superficial understanding of -- of -- of the</p> <p>18 machine, but if we stick to that page 21 of her</p> <p>19 testimony, she talks about that -- she's asked about</p> <p>20 her lowest threshold for casual contacts, and she</p> <p>21 says it's anything but 50. Do you see that there?</p> <p>22 A. I do see that, yes.</p> <p>23 Q. And so, to me, the next line -- let me</p> <p>24 just read this next question. She's asked -- I don't</p> <p>25 know how could this -- sorry. She -- she -- I read</p>	<p style="text-align: right;">39</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 it should say nondetect, not zero, because it's -- it</p> <p>2 is where it's set for the instrument, which is set at</p> <p>3 50.</p> <p>4 Q. Okay. So -- I'm sorry. And I'm sorry</p> <p>5 if I'm asking this again, but was it set to 50 in</p> <p>6 this case or is it set to something else in this</p> <p>7 case?</p> <p>8 A. No. I think it is set at 50, but what</p> <p>9 they're doing is when they take their samples and look</p> <p>10 at their data at the National Guard, they look at the</p> <p>11 backgrounds. Anything over 500 is a large cocaine</p> <p>12 hit. So when law enforcement brings in samples as</p> <p>13 they're getting samples from lots of places, in their</p> <p>14 reports if it's less than 500 then they're going to</p> <p>15 say, well, you know, you're getting close to the</p> <p>16 background. It may not be that good for a case. If</p> <p>17 you're over 500 it's a strong hit it's -- it's</p> <p>18 cocaine, and that's that logic that they are using.</p> <p>19 Q. Okay. Sorry. Let's see. So I'm</p> <p>20 looking back at the chart, but if you take -- I mean,</p> <p>21 I think we've covered this in a roundabout way but</p> <p>22 if, for instance, on any -- let me just pick one.</p> <p>23 On -- let's just take the first one Cameron County.</p> <p>24 You have this Total Max that's 1425, 1,425 and then</p> <p>25 the County Average is 59.38.</p>
<p style="text-align: right;">38</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 that and it says she set it to 50 and so if something</p> <p>2 in actual value is below 50 it just shows up as a</p> <p>3 zero on the machine and the machine doesn't alarm.</p> <p>4 Is that fair?</p> <p>5 A. That's fair, yes.</p> <p>6 Q. Okay.</p> <p>7 A. And she didn't set it to 50. It's set</p> <p>8 by Smiths Detection.</p> <p>9 Q. Ah, okay. Thank you for that</p> <p>10 clarification.</p> <p>11 So now I want to go back to the casual</p> <p>12 contact chart, that page 12 of your report, and I</p> <p>13 want to look at Potter County, the third county</p> <p>14 there.</p> <p>15 A. Yup.</p> <p>16 Q. And again you have 24 samples and then</p> <p>17 you have zero for the Total MaxA, and then zero for</p> <p>18 the County Average.</p> <p>19 A. Right.</p> <p>20 Q. Now, is it possible that she did those</p> <p>21 samples and in actuality the samples all had slightly</p> <p>22 below 50 counts per second, but because it's set at</p> <p>23 50 you basically just get a zero reading and you get</p> <p>24 a zero for that line of the chart, correct?</p> <p>25 A. That's correct. In fact, technically,</p>	<p style="text-align: right;">40</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 I mean, it's possible because we don't</p> <p>2 have the data, that you have a particularly high</p> <p>3 reading on one sample, like far greater than 59, but</p> <p>4 then the other samples are very low to give you that</p> <p>5 average, correct?</p> <p>6 A. Yes. Mathematically that's very</p> <p>7 possible.</p> <p>8 Q. And these are -- again, these are just</p> <p>9 random bills that they grabbed from casinos and</p> <p>10 banks, correct?</p> <p>11 A. That's correct. Yes.</p> <p>12 Q. Okay. All right.</p> <p>13 A. You know, and I think a lot of it was</p> <p>14 from banks and from banks you can have some brand new</p> <p>15 bills that maybe are packaged carefully and could</p> <p>16 truly give you no counts, zero. Most have gone</p> <p>17 through counting machines, and you will have some low</p> <p>18 level of contamination of lots of things.</p> <p>19 Q. Okay. And this is exhaustive of the</p> <p>20 samples that she got, I believe it's 20 counties from</p> <p>21 Pennsylvania, correct?</p> <p>22 A. Correct. Yes.</p> <p>23 Q. And I noticed, not to give you a</p> <p>24 geography quiz, but I noticed that Philadelphia is</p> <p>25 not in there.</p>

<p style="text-align: right;">41</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1           A.       Right. So, and I think that was in the 2 court statement that there are more than 20 counties 3 in Pennsylvania. I forgot how many there are in 4 reality. I think it was just they don't have enough 5 time to cover them all. So just looked at a map and 6 said we're going to cover these 20 and call it an 7 average across Pennsylvania.</p> <p>8           Q.       And do you know if, excuse me, if any 9 big cities in Pennsylvania are represented in any of 10 these counties?</p> <p>11          A.       Well, depends what you call big. 12 Certainly, Harrisburg is in one of these and West 13 Chester is a reasonable size. So there -- there are a 14 few larger cities in here, and there's a few counties 15 that are more farming areas.</p> <p>16          Q.       Okay. And I saw that this is one of 17 the questions that you had asked the agents in this 18 case, but you don't have any of this type of data for 19 North Carolina, correct?</p> <p>20          A.       Correct. I was trying to reach out for 21 this case, but also for my own education, across the 22 country for, you know, who has IMS instruments 'cause 23 not all National Guards do, and if they do who does 24 this casual contact type work, and I have not received 25 that answer, unfortunately, but I believe North</p>	<p style="text-align: right;">43</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1                   MR. BAIN-CREED: Okay. I see it.</p> <p>2           Sorry. Got it.</p> <p>3           BY MR. BURCH:</p> <p>4           Q.       So, Dr. Lareau, to me, that's -- that 5 sounds quantitative if you're -- if you're taking 6 counts per second and then you're converting it to 7 nanograms.</p> <p>8                   What -- could you help explain what 9 you mean by the IMS being not quantitative if 10 ultimately --</p> <p>11          A.       Yes.</p> <p>12          Q.       -- it -- well, is that -- I mean, 13 yeah. Yeah. Go ahead. Just explain to me what if 14 you -- if you agree that there's attention there and 15 then let's start with that. Do you agree that 16 there's attention there to say it's not quantitative, 17 and then to go and convert it and make it 18 quantitative assessment?</p> <p>19          A.       So what I stated is typically IMS the 20 way it's used in the field is not quantitative. It is 21 a strength of counts per second. Right? It's not a 22 quantitative number. You can make it, I call it 23 semi-quantitative. You can use standards and 24 reference it and look at the data and try to make it 25 into a semi-quantitative number, meaning I can say</p>
<p style="text-align: right;">42</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 Carolina doesn't have an IMS instrument, at least that 2 was the belief when I was trying to check.</p> <p>3          Q.       Okay. And do -- is there any -- do 4 you have data like this for any big city in the 5 United States?</p> <p>6          A.       No. The only other data I have 7 before -- besides this is the data from the Thomas 8 Jourdan paper, scientific paper that -- that lists a 9 lot of the counts in nanograms for cocaine and other 10 contamination, like 4,200 samples.</p> <p>11          Q.       Okay. So throughout the report, I 12 think a couple times you said that IMS machine is not 13 "quantitative" but ultimately you do convert to a 14 nanogram amount and maybe it's best to pull that up. 15                   So -- on a computer that's not mine. 16 One moment. Bear with me. Okay. Oh, okay. I found 17 it. It's at page 8. That you ultimately say that 18 50 to 100 counts per second is approximately .5 19 nanograms of cocaine. To me, that's -- that's -- 20 that's quantitative if you're able to do this 21 conversion, so --</p> <p>22                   MR. BAIN-CREED: Page 8. All right. 23 Where are you?</p> <p>24                   MR. BURCH: I'm at page 8 at the 25 bottom of the second paragraph there.</p>	<p style="text-align: right;">44</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 nanogram.</p> <p>2                   In this particular case or this 3 particular sentence, I'm referencing Lena Kim in 4 Toronto, where they in their Toronto laboratory, 5 Smiths Detection laboratory set up in local standards 6 and put the standards on the swipe and looked at what 7 the strength would be quantitatively, and then they 8 took those numbers and used it to say that, okay, when 9 we say it's 50 on a counts per second that's 10 approximately equal to .5 nanograms.</p> <p>11                   So they did it with a standard, but I 12 would -- I would call this a semi-quantitative number, 13 meaning that it's referenced to a standard and it's a 14 quantitative number and it's done in a laboratory. So 15 you can do that. It's not -- IMS is not a -- I don't 16 know how to explain this, but it's not a very linear 17 technology. So you have to use standards very 18 carefully and correlate or calibrate your standards to 19 what the counts per second is per channel, let's say 20 cocaine channel.</p> <p>21          Q.       Okay. So if I asked you to walk me 22 through mathematically that particular conversion, is 23 that something that you could do verbally or like I'm 24 trying to -- well, is that something you could do 25 verbally easily that I could understand?</p>

<p style="text-align: right;">45</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1           A.        I can attempt to. It's -- it's easier</p> <p>2   with a white board, but basically what they would do</p> <p>3   is run their system, let's say, with a dollar bill</p> <p>4   that just has contamination of cocaine on it, and they</p> <p>5   get a peak and they say, okay, that's equal to 50</p> <p>6   counts per second. Okay. Now, let's see how we can</p> <p>7   make that equal to a quantitative number.</p> <p>8            Then they would buy a standard. You</p> <p>9   could buy standards from companies that have cocaine</p> <p>10   in a solution and you dilute the solution, so I have</p> <p>11   something that's maybe .1, .5, and one nanograms,</p> <p>12   three bottles. It would run those three bottles by</p> <p>13   depositing on the swab going through desorbing it.</p> <p>14   IMS system comes up with a number. You take those</p> <p>15   three numbers, the three values, .1, .5 and one, on a</p> <p>16   straight line and you see where that corresponds to 50</p> <p>17   counts per second. You line that up and say, oh, 50</p> <p>18   counts per second on that line is exactly .5</p> <p>19   nanograms. That's how they would do it in a lab.</p> <p>20   Very similar to a calibration of a mass spectrometer</p> <p>21   or liquid chromatography, other methods that are used.</p> <p>22           Q.        Okay.</p> <p>23           A.        It's not a practical method to do in</p> <p>24   the field. It's just practical to do in the lab.</p> <p>25           Q.        Okay. So am I understanding this</p>	<p style="text-align: right;">47</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1   they still used an IMS system.</p> <p>2           Q.        And am I correct that they used a</p> <p>3   vacuum?</p> <p>4           A.        Yeah. And I've -- I've used one of</p> <p>5   those, I hate to say it, about 15, 20 years ago. It</p> <p>6   looks like a dust buster for vacuuming your house, and</p> <p>7   you literally would go across the bill and any</p> <p>8   particles that are there gets flown in that vacuum and</p> <p>9   get stuck on the sample material and you just take</p> <p>10   that sample material, put it into the instrument like</p> <p>11   a paper trap swab and you put it into the instrument.</p> <p>12   So the actual -- it's not a bad method and the actual</p> <p>13   numbers aren't that far apart between vacuuming in</p> <p>14   this swab or swipe-type sampling.</p> <p>15           Q.        Okay. And hypothetically, if Sergeant</p> <p>16   Boltz was correct that her chart is consistent -- the</p> <p>17   numbers on her chart are in nanograms and not counts</p> <p>18   per second, you would have pretty high nanogram</p> <p>19   amounts on -- well, it speaks for itself. It would</p> <p>20   be if she was correct you would have high nanogram</p> <p>21   amounts on those bills that she found at casinos and</p> <p>22   banks, correct, hypothetically?</p> <p>23           A.        And that's why, another reason why it's</p> <p>24   not nanograms. It's counts per second on that chart.</p> <p>25           Q.        Okay. We talked about Dr. Reno</p>
<p style="text-align: right;">46</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1   correctly that if 50 -- 50 to 100 counts a second per</p> <p>2   cocaine alarm gives you half a nanogram of cocaine,</p> <p>3   then am I right to conclude that wiping the surface</p> <p>4   of a bill from these banks that end up in the</p> <p>5   Pennsylvania chart, just -- just wiping the surface</p> <p>6   quickly, is yielding nanogram amounts of cocaine?</p> <p>7   Correct?</p> <p>8           A.        Yes. Correct.</p> <p>9           Q.        Okay.</p> <p>10           A.        And that -- that agrees with the paper</p> <p>11   I was referencing before, because they're saying that</p> <p>12   most, I think they said 97 percent of currency had</p> <p>13   somewhere around two and a half or three nanograms on</p> <p>14   the bill. It doesn't mean all over the bill. It</p> <p>15   means where they sampled, comes up with those numbers.</p> <p>16   Just like in this case you're sampling a part of a</p> <p>17   bill, not the total bill.</p> <p>18           Q.        So in the Jourdan study that we talked</p> <p>19   about earlier --</p> <p>20           A.        Yes.</p> <p>21           Q.        -- you're saying that they -- they</p> <p>22   sampled just a portion of the bills that they got?</p> <p>23           A.        Correct. Correct.</p> <p>24           Q.        Okay.</p> <p>25           A.        They sampled in a different way, but</p>	<p style="text-align: right;">48</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1   Debono, so I could skip that. Well, do I want to</p> <p>2   skip that? Is there anything that I need to</p> <p>3   understand about that? Let me find it real quick.</p> <p>4   Bear with me.</p> <p>5           A.        Page 9.</p> <p>6           Q.        Yeah, okay. Page 9. Let's see. The</p> <p>7   percentage based on a calculation to indicate...</p> <p>8                    So I'm sorry to make you do this, but</p> <p>9   what -- what is different about what Dr. Debono was</p> <p>10   telling you versus what Lena Kim told you?</p> <p>11           A.        So I -- I asked him the specific</p> <p>12   question, which I didn't gain before from Lena and</p> <p>13   that's that on these printouts it says percent</p> <p>14   strength, like 14 percent strength for cocaine, and I</p> <p>15   wanted to make sure I knew the calculation, meaning</p> <p>16   how do they come up with 14 percent versus counts per</p> <p>17   second. And that's the conversation I had with him,</p> <p>18   and he told me that they literally take the counts</p> <p>19   that are there and they divide it by the counts per</p> <p>20   second of a background level and multiply it times 100</p> <p>21   to give a percentage.</p> <p>22                    So it's a little bit more complicated</p> <p>23   than that in their mathematics, but it basically is a</p> <p>24   way to come up with a percent strength, which most</p> <p>25   people understand percent strength rather than a count</p>

<p style="text-align: right;">49</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 per second number.</p> <p>2 Q. Okay.</p> <p>3 A. And so they changed that to a percent</p> <p>4 strength to help the people in the field understand</p> <p>5 what it is, how it correlates.</p> <p>6 Q. Okay. So Dr. Debono for purposes of</p> <p>7 this report, he's talking about counts per second,</p> <p>8 says percent strength; whereas with Lena Kim, she's</p> <p>9 talking counts per second as it relates to nanograms,</p> <p>10 correct?</p> <p>11 A. That's correct.</p> <p>12 Q. Okay. I got it. I'm actually proud</p> <p>13 of myself for following this.</p> <p>14 Let's see. Where are we? So I want</p> <p>15 to start -- I want to talk a little bit -- I'm</p> <p>16 getting rather close to the end just to give</p> <p>17 everybody an idea. I don't think I'm going to take</p> <p>18 up the next full hour.</p> <p>19 So talking about the results in this</p> <p>20 case, the what I'll call the first sample, if I could</p> <p>21 pull that up. It's this. We were looking at it</p> <p>22 earlier.</p> <p>23 A. Yes.</p> <p>24 Q. It's the bundles. This Smiths</p> <p>25 Detection printout in Exhibit 3 that we have, Bates</p>	<p style="text-align: right;">51</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 A. Correct.</p> <p>2 Q. So how many -- how many bills did they</p> <p>3 swab for that first sample?</p> <p>4 A. I'd have to go back to how they did it.</p> <p>5 You know, I -- I'm not certain if I asked them that</p> <p>6 question, whether they sampled one bill or they laid</p> <p>7 them out like a deck of cards and sampled all ten at</p> <p>8 once, so I can't really answer that.</p> <p>9 Q. Okay. So if I look at -- if I'm on</p> <p>10 page 8 and I'm -- and there's a paragraph in which</p> <p>11 you're talking about the first sample, on that third</p> <p>12 sentence it references that, I'll just read it,</p> <p>13 "according to discussion with SA William Bass, they</p> <p>14 properly opened the bundles and placed the currency</p> <p>15 out on a table, followed by sampling across the</p> <p>16 surface of many bills."</p> <p>17 So he sampled -- he swabbed across</p> <p>18 many bills then, correct?</p> <p>19 A. I -- I believe so. But, again, I'm not</p> <p>20 the one who did it. So you're asking to confirm it's</p> <p>21 multiple bills or one. I think I either heard it or</p> <p>22 assumed multiple bills.</p> <p>23 Q. Okay. But in any event, your</p> <p>24 information is you don't know how -- how many bills?</p> <p>25 A. Correct.</p>
<p style="text-align: right;">50</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 stamp 92 on the bottom right. That's the -- in your</p> <p>2 report, I think you also call it the first sample or</p> <p>3 the -- first sample. Fair enough? Are we on the</p> <p>4 same page?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. So how -- you got -- your</p> <p>7 understanding of how the tests were conducted in this</p> <p>8 case is from the report and you also talked to Agent</p> <p>9 Bass on the phone, correct?</p> <p>10 A. Yes. I got permission from our</p> <p>11 lawyers, Ben and Seth, to talk to Sergeant Bass</p> <p>12 because I had questions on how they took the data,</p> <p>13 because it may be important with the printed results.</p> <p>14 Q. Okay. So is there -- if you go to</p> <p>15 page 7 of your report, there's a number of -- oh,</p> <p>16 yes, it's a phone interview. So this is these</p> <p>17 questions on page 7 of the report that you have the</p> <p>18 question and then their responses, is that basically</p> <p>19 exhaustive of the questions that you asked him on</p> <p>20 this phone call?</p> <p>21 A. I believe so.</p> <p>22 Q. Okay. So going back to the first</p> <p>23 sample, the first sample which was the currency, how</p> <p>24 many in the first sample we talked about yielded a</p> <p>25 13 -- 1,394 counts per second, correct?</p>	<p style="text-align: right;">52</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 Q. Okay. And then I want to just go</p> <p>2 through the same thing on the second sample of the</p> <p>3 currency. Do you know, is your information, do you</p> <p>4 know is it different bills or the same bills for the</p> <p>5 second sample?</p> <p>6 A. I think I was assuming it was another</p> <p>7 bundle. They had multiple bundles of bills. I was</p> <p>8 assuming it was a separate bundle of bills.</p> <p>9 Q. Okay. And then do you know how many</p> <p>10 bills they swabbed or swiped for that second sample?</p> <p>11 A. I do not.</p> <p>12 Q. Okay. Would you expect to have if,</p> <p>13 hypothetically, if someone had a bundle of bills that</p> <p>14 had cocaine on it, let's say they all had equal</p> <p>15 amounts of cocaine on them, each bill, if somebody</p> <p>16 swabbed one of those bills and tested it, would you</p> <p>17 expect that to have a smaller reading on the IMS</p> <p>18 machine than if somebody had swiped all 20 of those</p> <p>19 bills?</p> <p>20 A. That's a hard one to answer, because</p> <p>21 you don't know what's on the other bills. So it's</p> <p>22 a -- it's a question of how much is on each bill and</p> <p>23 how you're sampling it.</p> <p>24 Q. Okay. But if each bill had the exact</p> <p>25 same amount of cocaine, would you get a higher</p>

<p style="text-align: right;">53</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 reading by swabbing all 20 versus one?</p> <p>2 A. You should, yes. If you sample</p> <p>3 properly you should.</p> <p>4 Q. Okay. And I know we've talked about</p> <p>5 this and I know that you have said that Sergeant</p> <p>6 Boltz is wrong -- is when she testified that the</p> <p>7 chart was nanograms, your -- you believe that in fact</p> <p>8 the chart is counts per second. But, hypothetically,</p> <p>9 if those numbers on the chart were nanograms, would</p> <p>10 that affect your opinion in this case?</p> <p>11 THE REPORTER: We didn't get the</p> <p>12 question. You froze.</p> <p>13 MR. BURCH: Oh, okay. I'll start</p> <p>14 over.</p> <p>15 BY MR. BURCH:</p> <p>16 Q. If the numbers on the Pennsylvania</p> <p>17 chart, page 12 of your report, are -- were</p> <p>18 hypothetically in fact nanogram amounts as Sergeant</p> <p>19 Boltz testified, would that affect your opinion in</p> <p>20 this case, Dr. Lareau?</p> <p>21 A. I -- I'm not -- it might, but at the</p> <p>22 same point there's no way possible it could be</p> <p>23 nanograms. When you have these kind of numbers, some</p> <p>24 of these numbers, if they were true in nanograms that</p> <p>25 instrument would be overloaded and you wouldn't get</p>	<p style="text-align: right;">55</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 It shouldn't be there, is on some of the Smiths</p> <p>2 Detection instruments you -- you can take the swab by</p> <p>3 your hand and sample things, like I could sample the</p> <p>4 inside of a bag or I can use it with a wand on it. It</p> <p>5 turns out the 500DT is designed where you have no</p> <p>6 choice, you have to use the wand. So in this case the</p> <p>7 word implied shouldn't be there. The screener had to</p> <p>8 use a sampling wand.</p> <p>9 Q. Okay. I get it. And that's then --</p> <p>10 A. Model -- in newer models actually have</p> <p>11 a choice of using a wand or not a wand, and I wasn't</p> <p>12 certain whether that was modified with the 500DT, but</p> <p>13 I verified it. It's not. So the 500DT has to have a</p> <p>14 wand use in it.</p> <p>15 Q. Okay. And I think you might have said</p> <p>16 that implies maybe one other time or two -- one other</p> <p>17 time? Yeah, one other time, but same for the second</p> <p>18 time you used it, it was just that same thing,</p> <p>19 correct?</p> <p>20 A. Right. Yes.</p> <p>21 Q. Okay. All right. Can Smiths</p> <p>22 Detection -- sorry.</p> <p>23 Can the IMS machine that we've been</p> <p>24 talking about that was used in this case, can it have</p> <p>25 false positives?</p>
<p style="text-align: right;">54</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 the similar type of results that she or you are</p> <p>2 getting on these plasmagrams.</p> <p>3 Q. Okay.</p> <p>4 A. It would take a lot of cocaine or a lot</p> <p>5 of whatever and jam it into one of these systems, the</p> <p>6 system's probably going to have lots of trouble. It</p> <p>7 will alarm and tell you there's issues, but it won't</p> <p>8 be able to give you a good number at that point.</p> <p>9 Q. Okay. I'm trying to find one</p> <p>10 particular thing here, so if you could bear with me.</p> <p>11 I'm going to go to page 8 in the</p> <p>12 second to last paragraph, it's talking about the</p> <p>13 inside of the white bag. I just wanted a -- a</p> <p>14 clarification. The second sentence says, "This</p> <p>15 implies that the screener, utilizing the sampling</p> <p>16 wand"...</p> <p>17 The use of the word "implies" there,</p> <p>18 is that -- am I understanding that -- that you're</p> <p>19 just saying that the -- his little notation you just</p> <p>20 understood that when he says inside of the white bag,</p> <p>21 you're assuming that he wiped with a swab inside of</p> <p>22 the white bag? Is that what that means?</p> <p>23 A. No. I -- I knew he -- he sampled the</p> <p>24 inside. What I was doubting myself on, and that's why</p> <p>25 I used the word imply, but I could now correct that.</p>	<p style="text-align: right;">56</p> <p style="text-align: center;"><b>LAREAU - Burch</b></p> <p>1 A. It can. Sure.</p> <p>2 Q. What would cause -- well, and is that</p> <p>3 just a glitch in the machine or are there other</p> <p>4 causes of a false positive?</p> <p>5 A. There's -- there's other causes and</p> <p>6 it -- and it depends per species as to what the</p> <p>7 likelihood of it is. It's basically if there's</p> <p>8 something else that's out there as a chemical in the</p> <p>9 environment, you know, that -- that you could sample</p> <p>10 and it gives a peak very similar to where the cocaine</p> <p>11 peak is, then that can cause an alarm that's a false</p> <p>12 alarm.</p> <p>13 In -- in the case of -- there's a couple</p> <p>14 of types of false alarms. I'll give you an example.</p> <p>15 I'm more -- I'm more familiar in this with explosives</p> <p>16 than -- than narcotics, but in explosives NG is one of</p> <p>17 the channels for nitroglycerin that could be in</p> <p>18 dynamite and stuff, so it could alarm, but people know</p> <p>19 that that channel has a high possibility of other</p> <p>20 types of NG that are not illegal. As an example</p> <p>21 nitroglycerin that's in heart medicine and in fact</p> <p>22 PETN, which is an explosive, could alarm also for a</p> <p>23 heart medicine that's used in the UK, not in the</p> <p>24 United States. So things like that, they question the</p> <p>25 person to find out what that false alarm or nuisance</p>

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**LAREAU - Burch**

1 alarm can be.

2 In drug detection you could certainly

3 get some. There's -- there's not a lot of these

4 occurrences in cocaine or meth-type channels but, you

5 know, it's -- anything is possible.

6 MR. BURCH: Okay. I think I am done,

7 but I would request if everybody is okay with it, if I

8 just take two minutes to go over a couple notes and

9 get back on the record in just about two minutes. Is

10 that all right?

11 MR. BAIN-CREED: Hey, Ed, can you give

12 me five because there's some kind of noise out at the

13 street of my house, and it will give me a chance to

14 check it out for a second?

15 MR. BURCH: Oh, yeah. Perfect. So I

16 have 14 after. Well, I'll just make sure to be back

17 on by 19 after.

18 MR. BAIN-CREED: Sounds good.

19 MR. BURCH: Okay, thanks.

20 THE VIDEOGRAPHER: The time is 1:14.

21 We'll now go off the video record.

22 The time is 1:19. We'll now go back

23 on the video record.

24 MR. BURCH: Okay. So I'm sorry to go

25 back on, because I actually don't have any other

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**LAREAU - Burch**

1 questions, but perhaps, I don't know, maybe Ben has

2 follow-up. So maybe it's appropriate to go back on

3 the record.

4 MR. BAIN-CREED: Hey, Ed, I don't. I

5 do not have any follow-up, so I'm good.

6 MR. BURCH: Okay. So I guess that's

7 it, and Dr. Lareau is off the hook now.

8 THE VIDEOGRAPHER: The time is 1:19.

9 We have now completed the deposition.

10 (Deposition concluded at 1:19 p.m.)

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C E R T I F I C A T E

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2

3 I, COLLEEN M. VAUGHN, a Certified

4 Court Reporter and Notary Public of the State of New

5 Jersey, certify that the foregoing is a true and

6 accurate Computerized Transcript of the Remote

7 Videotaped Deposition of RICHARD T. LAREAU, Ph.D.,

8 who was first duly sworn by me.

9

10 I further certify that I am neither

11 attorney, of counsel for, nor related to or employed

12 by any of the parties to the action in which the

13 Depositions are taken, and further that I am not a

14 relative or employee of any attorney or counsel

15 employed in this case, nor am I financially

16 interested in the action.

17

18

19

20 /s/ COLLEEN M. VAUGHN, C.C.R., C.C.T.

21

22

23 Dated: December 15, 2020

24 My Commission Expires on February 26, 2021

25 Certificate No. 30XI00124100

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December 19, 2019

## MEMORANDUM FOR CERTIFIED BSA RECORD REQUESTOR

**FROM:** Jeffrey D. Anderson *JDA*  
Chief  
Law Enforcement Support Section

**SUBJECT:** Certification of Search for FinCEN Form 107,  
Registration of Money Services Business

As the federal government agency with primary responsibility for maintaining reports filed pursuant to the Bank Secrecy Act, 31 U.S.C. §5311, *et seq.*, the Financial Crimes Enforcement Network has conducted a diligent search for any FinCEN Form 107, Registration of Money Services Business under its control that relate to:

**SUBJECT:** ROBERT SAMUEL SHUMAKE  
**DOB:** 07/29/1968  
**SSN:** 377-80-9178

The above search of our records found no such forms filed by, or on behalf of, the above listed individual from 01/01/2001 through 12/16/2019.

EXHIBIT

16



December 19, 2019

**MEMORANDUM FOR CERTIFIED BSA RECORD REQUESTOR**

**FROM:** Jeffrey D. Anderson *JDA*  
Chief  
Law Enforcement Support Section

**SUBJECT:** Certification of Search for FinCEN Form 107,  
Registration of Money Services Business

As the federal government agency with primary responsibility for maintaining reports filed pursuant to the Bank Secrecy Act, 31 U.S.C. §5311, *et seq.*, the Financial Crimes Enforcement Network has conducted a diligent search for any FinCEN Form 107, Registration of Money Services Business under its control that relate to:

**SUBJECT:** DARREN LENNARD COLEMAN  
**DOB:** 08/09/1968  
**SSN:** 577-80-0449

The above search of our records found no such forms filed by, or on behalf of, the above listed individual from 01/01/2001 through 12/16/2019.



December 19, 2019

**MEMORANDUM FOR CERTIFIED BSA RECORD REQUESTOR**

**FROM:** Jeffrey D. Anderson *JDA*  
Chief  
Law Enforcement Support Section

**SUBJECT:** Certification of Search for FinCEN Form 107,  
Registration of Money Services Business

As the federal government agency with primary responsibility for maintaining reports filed pursuant to the Bank Secrecy Act, 31 U.S.C. §5311, *et seq.*, the Financial Crimes Enforcement Network has conducted a diligent search for any FinCEN Form 107, Registration of Money Services Business under its control that relate to:

**SUBJECT:** INTERNATIONAL HUMAN RIGHTS COMMISSION

The above search of our records found no such forms filed by, or on behalf of, the above listed entity from 01/01/2001 through 12/16/2019.



# State of North Carolina

OFFICE OF THE COMMISSIONER OF BANKS

ROY COOPER  
GOVERNOR

RAY GRACE  
COMMISSIONER OF BANKS

November 12, 2019

**CONFIDENTIAL**

Via Email ([william.v.bass@ice.dhs.gov](mailto:william.v.bass@ice.dhs.gov))

Special Agent William V. Bass  
Department of Homeland Security  
3700 Arco Corporate Drive  
Suite 300  
Charlotte, NC 28273

RE: International Human Rights Commission (IHRC)

Dear Special Agent Bass:

I am responding to Ms. Kuylen's letter of October 29, 2019, a copy of which is attached, requesting the licensing information for the International Human Rights Commission (IHRC). The North Carolina Office of the Commissioner of Banks (NCCOB) has no records for this company. I also checked the Nationwide Multistate Licensing System & Registry (<https://www.nmlsconsumeraccess.org/>), and IHRC is not registered.

As requested, NCCOB will treat your inquiry as confidential pursuant to N.C. Gen. Stat. § 53C-2-7(d) and 53-208.59.

Should you have questions or need additional information, please contact Angela Maynard at 919-733-4242 or [amaynard@nccob.gov](mailto:amaynard@nccob.gov).

Sincerely,

A handwritten signature in blue ink that reads "Katherine M.R. Bosken".

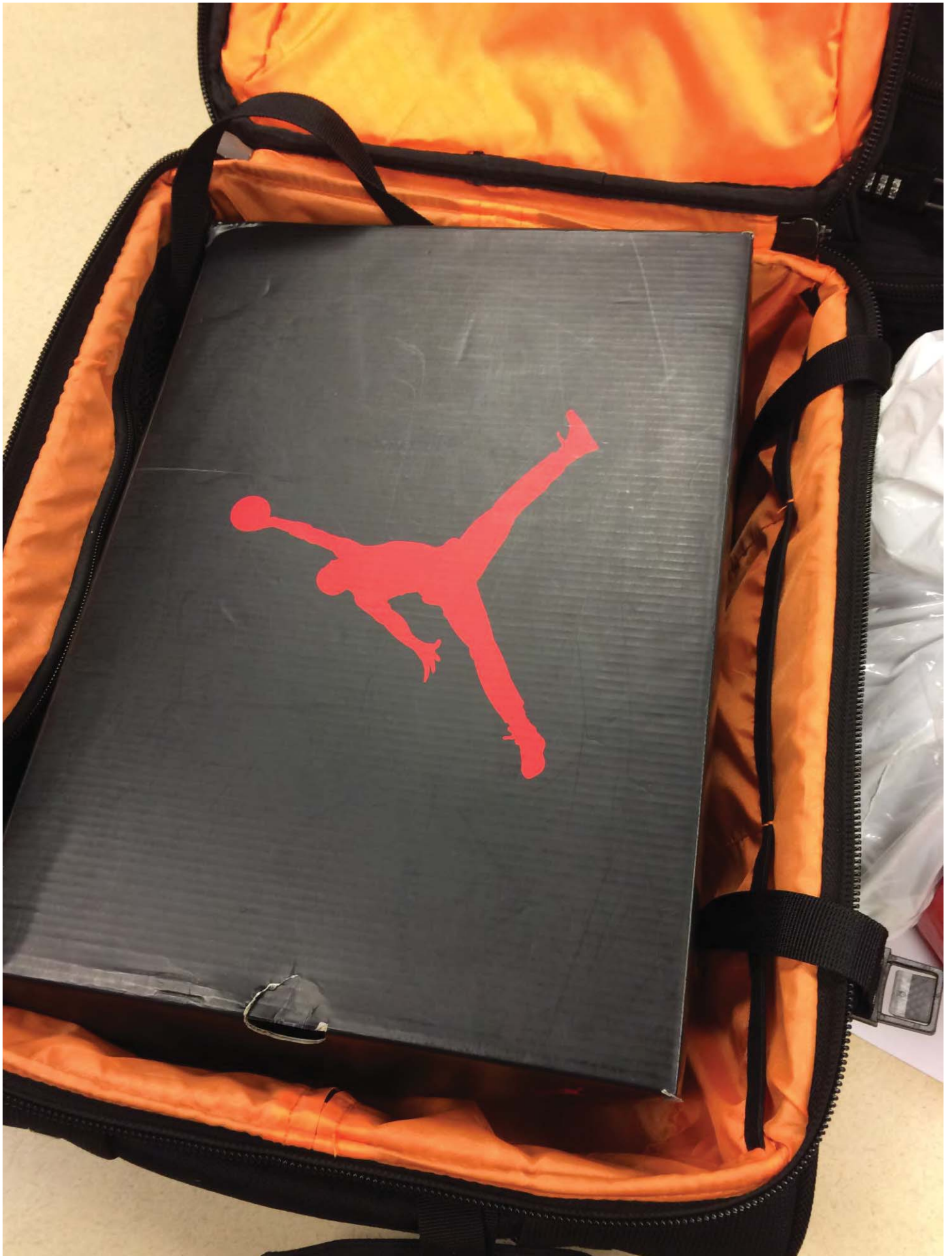
Katherine M.R. Bosken  
Deputy Commissioner  
Division of Legal Affairs





















# smiths detection

bringing technology to life

IONSCAN Model: 500DT S/N: 54772  
Release: 500DT\_3.04.017  
Deployment date: 08/24/2006

STATUS: PASS

Sample: 3181 Date: 06/27/2016 3:40:37 PM  
Sample type: VERIFICATION  
Method: 54772 N/E RevK  
Analysis type: VERIFICATION

ALARM

VERIFIC

Absolute Pressure (kPa): 101.02  
Different. Press. (kPa): 0.00  
Drift Flow (cc/min): 300

Tube 1  
Calibrant amplitude (du): 1084  
Calibrant delta (us): -38  
Calibrant position (us):  
Drift temperature (C): 250  
Inlet temperature (C): 265  
Cal Block temperat. (C): 78  
Polarity: Pos.  
High voltage (V): 1570

Tube 2  
Calibrant amplitude (du): 484  
delta (us): -65  
position (us):  
Drift temperature (C): 110  
Inlet temperature (C): 245  
Cal Block temperat. (C): 65  
Polarity: Neg.  
High voltage (V): 1809

Comments:

Tube/ Channel	#	Amp CumA	Ko Delta	DTime
1_V-2	14	3571	526 17	1.2145 14.447
1_V-3	14	4176	411 19	1.1010 15.936
2_Ver-N03	21	6703	468 3	1.9320 9.799
2_Ver-PC	6	1130	233 -18	1.1505 16.455
2_Ver-PN	21	4252	489 -7	1.1020 17.180
2_Ver-T	29	6779	456 3	1.4510 13.047

Auth.:

Bundles  
of  
Currency

## smiths detection

bringing technology to life

IONSCAN Model: 500DT S/N: 54772  
Release: 500DT\_3.04.017  
Deployment date: 08/24/2006

STATUS: ALARM

Sample: 3210 Date: 06/27/2016 3:56:15 PM  
Sample type: NORMAL  
Method: 54772 N/E RevK  
Analysis type: NORMAL

ALARM

Cocaine 14%

Absolute Pressure (kPa): 101.02  
Different. Press. (kPa): 0.00  
Drift Flow (cc/min): 299

### Tube 1

Calibrant amplitude (du): 1082  
Calibrant delta (us): -39  
Calibrant position (us):  
Drift temperature (C): 250  
Inlet temperature (C): 265  
Cal Block temperatur. (C): 78  
Polarity: Pos.  
High voltage (V): 1570

### Tube 2

Calibrant amplitude (du): 435  
delta (us): -71  
position (us):  
Drift temperature (C): 110  
Inlet temperature (C): 245  
Cal Block temperatur. (C): 65  
Polarity: Neg.  
High voltage (V): 1809

Comments:

Tube/ Channel	#	Amp CumA	Delta	Ko	DTime
1 Cocaine	11	1394	258	6	1.1600 15.124

Auth.:

Bundles  
of  
Currency

## smiths detection

bringing technology to life

IONSCAN Model: 500DT S/N: 54772

Release: 500DT\_3.04.017

Deployment date: 08/24/2006

STATUS: ALARM

Sample: 3206 Date: 06/27/2016 3:53:58 PM

Sample type: NORMAL

Method: 54772 N/E RevK

Analysis type: NORMAL

ALARM

Cocaine 32%

Absolute Pressure (kPa): 101.02

Different. Press. (kPa): 0.01

Drift Flow (cc/min): 299

### Tube 1

Calibrant amplitude (du): 1090

Calibrant delta (us): -36

Calibrant position (us):

Drift temperature (C): 249

Inlet temperature (C): 265

Cal Block temperat. (C): 78

Polarity: Pos.

High voltage (V): 1571

### Tube 2

Calibrant amplitude (du): 465

delta (us): -70

position (us):

Drift temperature (C): 110

Inlet temperature (C): 245

Cal Block temperat. (C): 65

Polarity: Neg.

High voltage (V): 1810

Comments:

Tube/ Channel	#	CumA	Amp	Delta	Ko	DTime
1 CocHigh	2	1334	717	31	1.1600	15.127
1 Cocaine	24	4702	519	18	1.1600	15.127

Auth.: \_\_\_\_\_

inside  
white  
bag

## smiths detection

bringing technology to life

IONSCAN Model: 500DT S/N: 54772

Release: 500DT\_3.04.017

Deployment date: 08/24/2006

STATUS: ALARM

Sample: 3196 Date: 06/27/2016 3:46:20 PM

Sample type: NORMAL

Method: 54772 N/E RevK

Analysis type: NORMAL

ALARM

Cocaine 15%

Absolute Pressure (kPa): 101.02

Different. Press. (kPa): 0.00

Drift Flow (cc/min): 300

Tube 1

Calibrant amplitude (du): 1082

Calibrant delta (us): -35

Calibrant position (us):

Drift temperature (C): 250

Inlet temperature (C): 265

Cal Block temperat. (C): 77

Polarity: Pos.

High voltage (V): 1570

Tube 2

Calibrant amplitude (du): 444

delta (us): -68

position (us):

Drift temperature (C): 110

Inlet temperature (C): 245

Cal Block temperat. (C): 64

Polarity: Neg.

High voltage (V): 1810

Comments:

Tube/ Channel	#	Amp CumA	Ko Delta	DTime
1 Cocaine	11	1476 266	6 1.1600	15.127

Auth.: \_\_\_\_\_

inside  
Red  
bag

## smiths detection

bringing technology to life

IONSCAN Model: 500DT S/N: 54772  
Release: 500DT\_3.04.017  
Deployment date: 08/24/2006

STATUS: ALARM

Sample: 3199 Date: 06/27/2016 3:47:48 PM  
Sample type: NORMAL  
Method: 54772 N/E RevK  
Analysis type: NORMAL

ALARM

Cocaine 12%

Absolute Pressure (kPa): 101.01  
Different. Press. (kPa): 0.00  
Drift Flow (cc/min): 300

Tube 1  
Calibrant amplitude (du): 1081  
Calibrant delta (us): -34  
Calibrant position (us):  
Drift temperature (C): 249  
Inlet temperature (C): 265  
Cal Block temperat. (C): 78  
Polarity: Pos.  
High voltage (V): 1571

Tube 2  
Calibrant amplitude (du): 441  
delta (us): -68  
position (us):  
Drift temperature (C): 110  
Inlet temperature (C): 245  
Cal Block temperat. (C): 64  
Polarity: Neg.  
High voltage (V): 1810

Comments:

Tube/ Channel	#	Amp CumA	Ko Delta	DTime
1 Cocaine	10	1137	229	9 1.1600 15.129

Auth.:

Inside black  
bag

## smiths detection

bringing technology to life

IONSCAN Model: 500DT S/N: 54772  
Release: 500DT\_3.04.017  
Deployment date: 08/24/2006

STATUS: ALARM

Sample: 3202 Date: 06/27/2016 3:49:49 PM  
Sample type: NORMAL  
Method: 54772 N/E RevK  
Analysis type: NORMAL

ALARM

Cocaine 4%

Absolute Pressure (kPa): 101.03  
Different. Press. (kPa): 0.00  
Drift Flow (cc/min): 299

### Tube 1

Calibrant amplitude (du): 1084  
Calibrant delta (us): -37  
Calibrant position (us):  
Drift temperature (C): 250  
Inlet temperature (C): 265  
Cal Block temperat. (C): 78  
Polarity: Pos.  
High voltage (V): 1570

### Tube 2

Calibrant amplitude (du): 445  
delta (us): -70  
position (us):  
Drift temperature (C): 110  
Inlet temperature (C): 245  
Cal Block temperat. (C): 64  
Polarity: Neg.  
High voltage (V): 1809

Comments:

Tube/ Channel	#	CumA	Amp Delta	Ko	DTime
1 Cocaine	6	409	102 15	1.1600	15.127

Auth.: \_\_\_\_\_

Inside  
Jordan  
Box

## smiths detection

bringing technology to life

IONSCAN Model: 500DT S/N: 54772  
Release: 500DT\_3.04.017  
Deployment date: 08/24/2006

STATUS: ALARM

Sample: 3193 Date: 06/27/2016 3:44:21 PM  
Sample type: NORMAL  
Method: 54772 N/E RevK  
Analysis type: NORMAL

ALARM

Cocaine 5%

Absolute Pressure (kPa): 101.02  
Different. Press. (kPa): 0.00  
Drift Flow (cc/min): 299

### Tube 1

Calibrant amplitude (du): 1078  
Calibrant delta (us): -36  
Calibrant position (us):  
Drift temperature (C): 249  
Inlet temperature (C): 265  
Cal Block temperat. (C): 78  
Polarity: Pos.  
High voltage (V): 1571

### Tube 2

Calibrant amplitude (du): 443  
delta (us): -69  
position (us):  
Drift temperature (C): 110  
Inlet temperature (C): 245  
Cal Block temperat. (C): 64  
Polarity: Neg.  
High voltage (V): 1809

Comments:

Tube/ Channel	#	Amp CumA	Ko Delta	DTime
1 Cocaine	4	379 128	0 1.1600	15.129

Auth.: \_\_\_\_\_